

MACsRAP1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
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3 ANTHONY RAPP, et al.,
4 Plaintiffs,

5 v. 20 CV 9586 (LAK)
Jury Trial
6 KEVIN SPACEY FOWLER, also
known as
7 Kevin Spacey,

8 Defendant.

9 -----x
10 New York, N.Y.
October 12, 2022
9:35 a.m.

11 Before:

12 HON. LEWIS A. KAPLAN,
13 District Judge
14 And A Jury
15 APPEARANCES

16 GAIR GAIR CONASON RUBINOWITZ BLOOM HERSHENHORN STEIGMAN &
MACKAUF
17 Attorneys for Plaintiffs
BY: RICHARD M. STEIGMAN
PETER JAMES SAGHIR

18 KELLER/ANDERLE LLP
19 Attorneys for Defendant
BY: JENNIFER KELLER
CHASE SCOLNICK
JAY PHILLIP BARRON

20 ALSO PRESENT:
21 ANGELLA IBISHAJ, paralegal

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(Trial resumed; jury not present)

THE COURT: Good morning. Be seated, folks.

First of all, Mr. Saghir, I thank you for the letter you sent me.

Secondly, reflecting on the manner in which this proceeded yesterday, I have two suggestions that I think will greatly simplify the remainder of the cross-examination.

8 Ms. Keller, you're a very experienced trial lawyer and
9 a good one. All the lawyers in this case are very good, and we
10 all have our way of asking questions. Unsurprisingly, you have
11 repeatedly asked Mr. Rapp did he tell somebody X. And Mr. Rapp
12 then says something like, I didn't use those words. And we're
13 off to six more questions. I, of course, am guilty of
14 hyperbole here, six more questions to get him to answer the
15 substance of the question.

16 And, Mr. Rapp, you're a very intelligent young man and
17 you listen acutely for every adjective and every particle of a
18 question to figure out how you can answer the question without
19 answering the question, frankly. We're going to have an end to
20 that.

21 And I would suggest -- it's up to you, Ms. Keller,
22 conduct your examination as you wish -- but if you ask, did you
23 tell so-and-so, in words or in substance, then we don't have to
24 go through the quibbling about the words.

25 Mr. Rapp, your job is to answer the questions, not to

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1 engage in, you know, what you were thinking at the time or any
2 of that. OK? Let's try to do that.

3 Let's get the jury.

4 MR. SAGHIR: Your Honor, would you like Mr. Rapp to
5 take the stand again?

6 THE COURT: Yes. Thank you.

7 (Continued on next page)

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Rapp - Cross

1 (Jury present)

2 THE COURT: Good morning, everybody. Members of the
3 jury, you can sit down as soon as you come in. Everyone is
4 standing for you.

5 We're going to continue the cross-examination of
6 Mr. Rapp.

7 Mr. Rapp, you're still under oath.

8 ANTHONY RAPP, resumed.

9 You may proceed, Ms. Keller.

10 MS. KELLER: Thank you, your Honor.

11 CROSS-EXAMINATION

12 BY MS. KELLER:

13 Q. Mr. Rapp, your friend Tracie Thoms told you, perhaps not
14 in these exact words, but told you how much she admired
15 Mr. Spacey's acting in 2004 or 2005, correct?

16 A. Correct.

17 Q. And you responded by, again, telling your Kevin Spacey
18 story to her, right?

19 A. Correct.

20 Q. Now, in 2006 Mr. Spacey was nominated for a Grammy for his
21 work in a movie called *Beyond the Sea*, right?

22 A. I'm not aware of that.

23 Q. You're not aware of the movie where he played Bobby Darin
24 and sang every song?

25 A. I'm aware of the movie. I'm not aware of the Grammy

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Rapp - Cross

1 nomination.

2 Q. Was it not something that you followed, Grammy nominations?

3 A. Generally, I don't follow them very closely.

4 Q. Did you follow the Grammy nominations when *Rent* was
5 involved?

6 A. Certainly.

7 Q. But just for that?

8 A. Not just for that, but I was aware of the Grammy
9 nominations the year that *Rent* was on Broadway, yes.

10 Q. And you know that Mr. Spacey continued to play prominent
11 roles throughout the 2010s, right?

12 A. Yes.

13 Q. He was nominated for a Golden Globe for best actor in a
14 television drama for *House of Cards*, right?

15 A. I believe so.

16 Q. And as well as multiple -- nominated for multiple Emmys for
17 *House of Cards*, right?

18 A. I believe so.

19 Q. Those are not award that you were ever nominated for, true?

20 A. True.

21 Q. And you didn't care about that, am I right?

22 A. I didn't care -- I didn't care about not having been
23 nominated for Emmys or Golden Globes.

24 Q. But yes for the Tony, right; you did care about this?

25 A. I cared about that very much, yes.

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Rapp - Cross

1 Q. Now, you told your even Spacey story to well over 100
2 people over the years, right?

3 A. I don't know the number, ma'am.

4 Q. Do you remember giving, early on in the case, an answer to
5 what's called an interrogatory, where you gave a list of all
6 the people you had told up to that point that you remembered?

7 A. Yes, I do remember that.

8 Q. Pretty long list, wasn't it?

9 A. Yes.

10 Q. And I would like to talk now about all the people you
11 didn't tell.

12 You said that you saw a therapist named Michael
13 Collins in 2016 and '17 in California, correct?

14 A. Correct.

15 Q. And you saw Dr. Collins, you said, primarily for
16 relationships with your husband Ken, right?

17 A. We weren't married at the time, but yes.

18 Q. Your relationship with Ken?

19 A. Yes.

20 Q. And part of that was dealing with the stressors of the long
21 distance relationship, right?

22 A. Correct.

23 Q. And part of it was relationship issues generally, true,
24 with Ken?

25 A. Yes.

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Rapp - Cross

1 Q. OK. You thought that he was a good therapist?

2 A. Sure, yes.

3 Q. You were comfortable with him?

4 A. Yes.

5 Q. You spoke to him about your feelings and emotions?

6 A. As pertaining to my relationship with Ken, yes.

7 Q. And you know having been in extensive therapy that
8 experiences before that relationship can influence how the
9 relationship goes, right?

10 A. In some cases, yes.

11 Q. Well, that is what you're claiming in this case through
12 your expert witness. You're claiming that the incident that
13 you say happened with Mr. Spacey has permeated relationships
14 throughout your life, right?

15 A. I'm claiming that as part of my therapy, we have explored
16 the ways it has impacted my life, including the possibility
17 that it's had an impact on some of my interpersonal
18 relationships, yes.

19 Q. You didn't tell Dr. Collins your Kevin Spacey story when
20 you saw him, did you?

21 A. Correct.

22 Q. Did you even tell him without giving a name, that you had
23 been sexually abused by anybody?

24 A. Correct, I did not.

25 Q. You didn't tell him about what you considered to be one of

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Rapp - Cross

1 the most traumatic incidents in your entire life, true?

2 A. True.

3 Q. You didn't tell him that this incident had caused you
4 tremendous amount of pain and anxiety?

5 A. True.

6 Q. Now, you also started -- you also saw this therapist, Robin
7 Magid in New York intermittently for nearly 25 years starting
8 in 1998, true?

9 A. 1997.

10 Q. You described her on the stand as a social worker, right?

11 A. I believe that's her -- that's what I knew her title to be,
12 yes.

13 Q. Was she a licensed clinical social worker?

14 A. That's as far as I know, yes.

15 Q. OK. And she was -- you thought she was a good and
16 supportive therapist?

17 A. Very much so.

18 Q. And you talked with her about all sorts of things in your
19 life, not just your relationship with Ken, but your whole life
20 for 25 years, right?

21 A. When I started seeing her, I was talking about my grief of
22 losing my mother.

23 Q. And for the next 25 years, you talked about all sorts of
24 things with her, right?

25 A. Yes.

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Rapp - Cross

1 Q. Now, and was she supportive of you?

2 A. Very much so.

3 Q. You didn't tell Ms. Magid your Kevin Spacey story until
4 after you told *BuzzFeed* magazine and you knew the story was
5 going to come out, right?

6 A. That is my -- my memory is when -- when I spoke to her was
7 when I was considering coming forward.

8 Q. Well, specifically it was October 23, 2017?

9 A. Correct.

10 Q. And you weren't just considering it, you had already been
11 talking to Adam -- to Adam Vary since October 10 and the story
12 was about to be published in three days?

13 A. That is not correct, ma'am.

14 Q. Well, let's take a look. If we could look at Defendant's
15 Exhibit Z.

16 THE COURT: Defendant's Exhibit Z as in zebra?

17 MS. KELLER: Yes, your Honor.

18 Q. This is your first text message?

19 A. Correct.

20 Q. To Adam Vary: Hey, my friend, can you call me when you get
21 a chance? In the wake of the Harvey Weinstein story and its
22 fallout, I am wanting to speak out about someone else very
23 powerful in our industry, but I would want to try to do it in
24 the best, most effective manner and would want your help and
25 participation if you feel it would be appropriate. He says,

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Rapp - Cross

1 Yes, happy to. I can talk in about 20 minutes?

2 A. Yes.

3 Q. That was October 11?

4 A. Correct.

5 Q. Right?

6 A. Yes.

7 Q. Let's look if we could turn to see if we can refresh your
8 recollection by showing you a note, therapy notes from
9 Ms. Magid.

10 MS. KELLER: Can we show that to Mr. Vary, please.

11 MR. SAGHIR: Mr. Rapp.

12 MS. KELLER: I'm sorry, Mr. Rapp. Thank you, counsel.

13 Q. Do you see in the top left-hand corner --

14 THE COURT: Before you go on, what exhibit are you
15 displaying?

16 Is it in evidence?

17 MS. KELLER: It is not an exhibit yet and it is not in
18 evidence. It is --

19 THE COURT: We're going to get it marked right now
20 first off, because someday an Appellate Court may be looking at
21 this and they have to know what we are talking about.

22 MS. KELLER: You're right, your Honor.

23 Can we have that marked for identification as -- I
24 think by now it's Defense FFF.

25 THE COURT: Well, we'll hope so.

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Rapp - Cross

1 Do you have a hard copy to hand up?

2 MR. SCOLNICK: Yes, your Honor.

3 THE COURT: We can have it marked.

4 MS. KELLER: Shall I wait until that is done, your
5 Honor?

6 THE COURT: Yes, please.

7 (Pause)

8 MR. SCOLNICK: May I approach, your Honor?

9 THE COURT: Yes, please.

10 All right. Next question.

11 (Counsel confer)

12 BY MS. KELLER:

13 Q. If you look in the top left-hand corner, you see a date?

14 THE COURT: Well, it's still not in evidence, counsel.

15 MS. KELLER: I'm sorry.

16 THE COURT: It's not in evidence. You haven't
17 identified it.

18 MS. KELLER: Yes, your Honor. I'm not intending to
19 introduce it. It may come in through his therapist. I'm
20 asking if this refreshes his recollection.

21 THE COURT: About what?

22 MS. KELLER: About the date he told Ms. Magid.

23 THE COURT: Well, he didn't say he didn't remember the
24 date. You posited to him that it was October 23, and he agreed
25 with that.

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Rapp - Cross

1 MS. KELLER: OK. It was October --

2 THE COURT: Let me go back and double-check.

3 (Pause)

4 Well, specifically it was October 23, 2017?

5 Answer: Correct.

6 MS. KELLER: OK.

7 THE COURT: Then you asked: And you weren't just
8 considering it, you had already been talking to Adam, to Adam
9 Vary, since October 10 and the story was about to be published
10 in three days? And he answered: That is not correct.

11 He didn't say he didn't remember.

12 MS. KELLER: Thank you, your Honor. I appreciate
13 that.

14 BY MS. KELLER:

15 Q. It was October 11 you first contacted Adam Vary, right?

16 A. When I first contacted Adam Vary, it was October 11, yes.

17 Q. OK. Sorry about that.

18 So the *BuzzFeed* story didn't come out until
19 October 30, am I right?

20 A. It was October 29 or 30th.

21 Q. OK. So you told Ms. Magid seven days before that story
22 came out for the first time about your Kevin Spacey story,
23 right?

24 A. Correct.

25 Q. And when she asked you why it was you hadn't told her all

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Rapp - Cross

1 those years, you said that you were afraid she would think you
2 were bad, right?

3 A. That is not correct. I know that's in her notes, that is
4 not what I told her.

5 Q. OK. You told dozens of people your Kevin Spacey story,
6 though, before ever coming forward and telling your therapist
7 of many decades, true?

8 A. True.

9 Q. Now, during your 20 years of therapy with her, you told her
10 many, many upsetting details about your private life, right?

11 A. I talked to her about intimate matters, some of them more
12 upsetting.

13 Q. OK. You told her about hitting your mom in the face?

14 A. I'm not sure that I did.

15 Q. You told her about attacking and beating your boyfriend
16 when he wanted to leave you?

17 A. That was the reason that I entered therapy with her, yes.

18 Q. You told her about various other attacks on you, right?

19 A. I'm not sure.

20 Q. Well, you told her about various other attacks on you
21 including being physically attacked, right?

22 A. I may have.

23 Q. You never told your story about Mr. Spacey to the police,
24 true?

25 A. True.

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Rapp - Cross

1 Q. Or to any law enforcement agency, right?

2 A. Correct.

3 Q. In fact, in your book *Without You* that you published in
4 2006, you also included very personal details about your life,
5 right?

6 A. Correct.

7 Q. You wrote about your family?

8 A. Correct.

9 Q. You wrote that your grandmother had abused your mother?

10 A. Correct.

11 Q. You wrote about fights with your mother?

12 A. Yes.

13 Q. You wrote about all kinds of things about relationships?

14 A. My -- my relationships, yes.

15 Q. You wrote about sexual relationships?

16 A. Yes.

17 Q. And sometimes you named the partners, sometimes you
18 anonymized them?

19 A. Yes.

20 Q. You wrote about being happy at times?

21 A. Yes.

22 Q. Sad at times?

23 A. Yes.

24 Q. You wrote about going to therapy?

25 A. Yes.

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Rapp - Cross

1 Q. You wrote about all sorts of details about your childhood,
2 right?

3 A. I -- I wrote some details about my childhood.

4 Q. Well, even your mother falling on the stairs when you were
5 a baby and carrying you down to that level of detail, right?

6 A. Yes.

7 Q. And you wrote about being in New York in *Precious Sons* in
8 1986?

9 A. Yes.

10 Q. And all about your acting career?

11 A. All about my acting career? I didn't write all about my
12 acting career, no.

13 Q. OK. You wrote about your acting career?

14 A. Yes.

15 Q. Now, you included references to your friend Andy Dick?

16 A. Yes.

17 Q. And sometimes you used pseudonyms for people and sometimes
18 not?

19 A. Correct.

20 Q. But, once again, you never included the Kevin Spacey story
21 in your book, true?

22 A. True.

23 Q. And you didn't even try to anonymize Mr. Spacey like you
24 had for some other people in your life?

25 A. Correct.

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Rapp - Cross

1 Q. You didn't include any claim in your book that any
2 anonymous actor picked you up and put you on a bed and got on
3 top of you, correct?

4 A. Correct.

5 Q. OK. I want to move on a little bit.

6 You currently play a role in the Star Trek Discovery
7 series on Paramount?

8 A. Yes.

9 Q. And that is not on broadcast TV, that's a streaming series?

10 A. Yes.

11 Q. So somebody that's to subscribe to Paramount to see it?

12 A. Paramount+, yes.

13 Q. Paramount+. So this is a spinoff, one of the 12 Star Trek
14 series?

15 A. Yes. It was the relaunch of this new era of these new
16 Star Trek series.

17 Q. You have a recurring, but not a starring role?

18 A. I'm a serious regular.

19 Q. OK. It first aired in September of 2017, right?

20 A. Correct.

21 Q. And the show announced its second season about late October
22 of 2017, it announced that it was being renewed?

23 A. If you say so. I don't remember when that was announced,
24 but I believe you.

25 Q. You were pleased that the series was renewed for a second

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Rapp - Cross

1 season, true?

2 A. Very much so.

3 Q. It hadn't been a sure thing, had it?

4 A. It never is.

5 Q. Yeah. But the show had not been doing well enough for you
6 to know if it was going to be renewed?

7 A. That is not the case.

8 Q. And you wanted to promote the show, right?

9 A. Correct.

10 Q. You wanted to raise your visibility?

11 A. It's part of my job to promote the show.

12 Q. You wanted to -- you knew that the #MeToo movement was
13 gaining steam in October 2017, right?

14 A. Correct.

15 Q. Some of those stories were appearing in the *New York Times*,
16 right?

17 A. Correct.

18 Q. You know the *New York Times* is known for its investigative
19 reporting, true?

20 A. True.

21 Q. But you didn't contact the *New York Times* with your Kevin
22 Spacey story, did you?

23 A. I did not.

24 Q. And so you said you contacted your old friend Adam Vary at
25 *BuzzFeed*. As I recall, you said that he was used to doing

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Rapp - Cross

1 complex articles and he was a reporter of integrity, is that
2 right?

3 A. Correct.

4 Q. Can you name any of the complex articles?

5 A. I know he worked at -- I can't name the article. There
6 were any number of articles I read of his over the years,
7 including when I first met him at college, where he wrote a
8 complex article about an issue on the campus I found to be
9 quite thoughtful and well reported and well written.

10 Q. Isn't BuzzFeed known for quizzes about celebrities and food?

11 A. Parts of BuzzFeed are. There is also BuzzFeed News.

12 Q. Now Adam, of course, wrote for BuzzFeed, right?

13 A. He wrote for BuzzFeed News, yes.

14 Q. And it was your understanding that BuzzFeed did not require
15 corroboration for its stories, true?

16 A. Not true.

17 Q. Let's talk about if we could have Defendant's Trial
18 Exhibit AA. I believe that's already in evidence.

19 THE COURT: I'm not sure about that. I'm handicapped
20 without Andy being here this morning. He'll be back this
21 afternoon. But according to what I can determine, it is not in
22 evidence.

23 MS. KELLER: OK.

24 THE COURT: Subject to correction.

25 MS. KELLER: Let's take a look where it starts Adam

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Rapp - Cross

1 Vary, one thing to make you aware of.

2 OK. One thing to make you aware of --

3 THE COURT: Ma'am, you've just got to stop doing this,
4 this way. Are we offering it into evidence or not?

5 You're not to talk about the substance unless it's in
6 evidence.

7 MS. KELLER: We have a redacted version consistent
8 with the court's rulings that we will offer.

9 THE COURT: Well, let's do it.

10 MS. KELLER: Your Honor, I offer Exhibit AA.

11 THE COURT: Any objection?

12 MR. SAGHIR: Just one moment, your Honor.

13 No objection, your Honor.

14 THE COURT: AA is received.

15 (Defendant's Exhibit AA received in evidence)

16 BY MS. KELLER:

17 Q. If we can go down to the part where Mr. Vary says, one
18 thing to make you aware of.

19 And this is October 27, right?

20 A. Correct.

21 Q. One thing to make you aware of: We can't seem to place
22 Spacey at the Tony's in 2008. He didn't present and wasn't
23 nominated and there is no photos we can find. We don't doubt
24 he was there, but we don't want to nail down a specific date
25 that Spacey could then just flatly deny.

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Rapp - Cross

1 Is that your idea of a reporter of integrity?

2 MR. SAGHIR: Objection.

3 THE COURT: Overruled.

4 A. He was working to verify what I had told him. I considered
5 that --

6 THE COURT: Mr. Rapp, start again. We'll have the
7 question read back, and please answer the question.

8 Q. Is that your idea --

9 THE COURT: It is a yes-or-no question, not an essay
10 question.

11 THE WITNESS: I'm sorry, yes.

12 Q. Is that what you consider a reporter of integrity?

13 A. I do.

14 Q. And the reason that he was writing you that, is that you
15 had told him a story about running into Mr. Spacey in a
16 bathroom at the Tony's in 2008, remember that?

17 A. I do.

18 Q. And you told him that you were frozen and, you know, the
19 whole electric cattle prod thing and all that. I don't know if
20 you told him about the cattle prod. You ran into him and it
21 was --

22 A. Correct.

23 Q. -- it was very difficult for you?

24 A. Correct.

25 Q. And it turned out that it wasn't 2008, right?

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Rapp - Cross

1 A. Correct.

2 Q. So Mr. Vary, rather than reporting what you told him,
3 decided to try to figure out when Mr. Spacey and you might have
4 been at the Tony's, right?

5 A. I don't know that that is what -- I can't answer what he
6 was trying to do. I'm sorry. I don't know. What was the
7 question?

8 Q. Let's see. Let me ask you a little more about this
9 paragraph before I move on.

10 We're still looking, but if we can't nail it down, we
11 will likely say you saw him at an industry event or such.

12 So not even at the Tony's, right?

13 A. That's what he said.

14 Q. Is that your idea of a reporter of integrity, who would
15 massage a story that way?

16 MR. SAGHIR: Objection to the form, argumentative.

17 THE COURT: Overruled.

18 A. I don't -- how can I -- can you rephrase the question?

19 Q. Is that your idea of a person of integrity, a reporter of
20 integrity?

21 A. To some degree.

22 Q. You've told him that you saw Mr. Spacey at the Tony's in
23 2008. His response is, We can't find any record of it and we
24 don't want to let Spacey be able to deny this. We don't want
25 to give him the ability to deny it, right?

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Rapp - Cross

1 A. Correct.

2 Q. I mean, what if Mr. Spacey was out of the country; that
3 would be bad, right?

4 A. Correct.

5 Q. So he decided he would make it, if they couldn't nail down
6 when it actually was, he would make it vague, just that you saw
7 him at some industry event, right?

8 A. Correct. That's what he said.

9 Q. He would come up with something that could not be disproven
10 because it would be so vague, right?

11 A. Correct.

12 May I explain?

13 THE COURT: No. No.

14 Q. Then he said, similarly --

15 THE COURT: Excuse me, Ms. Keller.

16 Your lawyers have an opportunity to question you
17 later.

18 THE WITNESS: I understand.

19 THE COURT: Your job is to answer these questions.

20 THE WITNESS: I understand.

21 BY MS. KELLER:

22 Q. Then he said, similarly, we're also going to steer away
23 from exact specificity in the story for the party.

24 Now, the party he was referring to was the party you
25 said you went to at Mr. Spacey's house, right?

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1 A. Correct.

2 Q. So he didn't want to give anything specific because he
3 didn't want Mr. Spacey to be able to bring out a calendar and
4 say, Hey, that couldn't have happened, right?

5 A. I do not know -- I don't know how to answer that question.

6 Q. Well, you didn't write back to him, I don't know what you
7 mean, let's try to tell the truth, did you?

8 A. I did not.

9 Q. Keep it vague, wasn't that the message?

10 MR. SAGHIR: Objection.

11 THE COURT: Sustained.

12 Q. You never objected when Mr. Vary said he would steer away
13 from exact specificity in the story for the party, correct?

14 A. Correct.

15 Q. And you didn't tell Mr. Vary that you thought this would be
16 dishonest journalism, right?

17 A. Correct.

18 Q. And, in fact, in this very trial, you yourself have tried
19 to keep it vague, haven't you?

20 A. I don't know what you mean.

21 Q. Well, you claimed not to know the end date for *Precious*
22 Sons. Gee, I'm not sure. I kind of know maybe a little here
23 and there.

24 But all you had to do was look at your own Wikipedia
25 page or IMDb and you would know exactly what date it ended,

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1 right?

2 MR. SAGHIR: Objection to the form.

3 THE COURT: Overruled.

4 A. The question is?

5 Q. The question is, you've been keeping it vague even in this
6 trial, right?

7 A. I -- I've been -- I've said what I knew to be true.

8 Q. You didn't even want to say the date *Precious Sons* ended
9 because that would create a bracket for when this incident with
10 Mr. Spacey allegedly happened, true?

11 A. Not true.

12 Q. And you could easily look it up, as we pointed out
13 yesterday, in 10 or 15 seconds, right?

14 A. It's -- yes, it's true it's easy to look up.

15 Q. And you also wanted to keep it vague on the day that you
16 claim this happened, although at one time in the past you said
17 that you remembered at the party Molly Ringwald was on David
18 Letterman, right?

19 A. Correct.

20 Q. And, again, easily looked up, 10, 20 seconds and there it
21 is, May 20, right?

22 A. Apparently, yes.

23 Q. Apparently.

24 You knew you could do that, didn't you, look it up
25 yourself?

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1 A. I did not know when I was asked those questions that I
2 could do that.

3 Q. Or at any time in the previous 30 years?

4 A. Correct.

5 Q. When you said you knew you could count on Mr. Vary to take
6 care of your story, what you meant by that was to slant it in
7 your favor and not ask difficult questions of you, right?

8 A. Not right.

9 Q. And to make sure that if you said something to him like the
10 2008 Tony story, that turned out to be wrong, that he would
11 eliminate it or change it or make it vague, right?

12 A. Not right.

13 Q. And this is how he took care of your story, isn't it?

14 A. No, ma'am.

15 Q. It turns out that you ran into Mr. Spacey at the Tony's in
16 1999, so you now say, right?

17 A. That is what happened.

18 Q. Because you were in a production -- you were in one number
19 with your cast of Charlie Brown, a song from Charlie Brown,
20 right?

21 A. Correct.

22 Q. But you weren't at the Tony's, you didn't have a seat at
23 the Tony's?

24 A. Correct.

25 Q. And you weren't even one of the two people in the duet who

MACsRAP1

Rapp - Cross

1 came out and sang the majority of the song, right?

2 A. I'm -- I'm -- we did a number. I was in the number on the
3 Tony's.

4 THE COURT: Just answer the question.

5 A. I don't know what she's -- I don't know what you're
6 referring to.

7 Q. I'm referring to the duet and then your group coming in at
8 the very end for 10 seconds or so and singing and dancing.

9 A. OK.

10 Q. That is what happened, right?

11 A. OK, sure.

12 Q. You weren't in the duet?

13 A. I was not in the duet.

14 Q. And you didn't have a seat in the Tony's. So even then,
15 even when you said, well, I was there for Charlie Brown and I
16 know Spacey was there, so even then you couldn't really be sure
17 you had run into him, because you had only been there for
18 rehearsals and then that one very brief number?

19 A. That's not true, ma'am. I'm certain that I was there and
20 I'm certain that I ran into him.

21 Q. Just as certain as you were when you told Adam Vary that it
22 was 2008 that you ran into him?

23 A. Not -- I mistook the date.

24 Q. Mr. Spacey was nominated at that time for a Tony for
25 *The Iceman Cometh*, right?

MACsRAP1

Rapp - Cross

1 A. Correct.

2 Q. You weren't a nominee?

3 A. I was not.

4 Q. You've never been a nominee for a Tony?

5 A. Correct.

6 Q. And he was nominated for leading actor in a play, right?

7 A. Correct.

8 Q. So except for being on stage, being there for rehearsals of
9 your Charlie Brown number and being on stage for that 10 to
10 15 seconds, you weren't even involved with the Tony's that
11 year, right?

12 A. I was involved with the Tony's that year.

13 Q. Yeah, except for that one brief period you were not?

14 A. During the day, I was there for any number of hours. I
15 don't remember the exact time. I was there for a period of
16 time during the day, and then I was there for the broadcast and
17 backstage and everything that evening.

18 Q. You were backstage for your number?

19 A. What I -- yes.

20 Q. In fact, you complained to Mr. Vary that you weren't a
21 nominee, didn't you?

22 A. I don't recall that.

23 Q. You complained you've never been a nominee, and he said he
24 was outraged on your behalf?

25 A. I complained -- may I see this? I don't recall this

MACsRAP1

Rapp - Cross

1 conversation.

2 MS. KELLER: I think that's the same exhibit page
3 three of four. Same exhibit.

4 THE COURT: We're talking about AA?

5 MS. KELLER: Yes, your Honor.

6 THE COURT: Thank you.

7 BY MS. KELLER:

8 Q. This is when you're trying to figure out with Mr. Vary when
9 you could have physically seen Mr. Spacey at an Oscar's?

10 A. Is that a question?

11 Q. Yes. Is that correct?

12 A. This was after that conversation follows when I said, ah,
13 now I know it was the 1999 Tony's. I was mistaken about the
14 year.

15 Q. And you're even trying to figure out not just the year, but
16 how it was that you could have run into him. And he says, do
17 you remember -- if we can go back up where we just were,
18 Mr. Barron -- do you remember if it was during the show or
19 before? And you said, Well, I didn't have a seat in the
20 theater, so it has to be during the rehearsal time earlier in
21 the day. Those jerks, is his reply. And you said, ha. I
22 wasn't a nominee.

23 We go down.

24 Your character's name was in the title. Your
25 character being Charlie Brown, right.

MACsRAP1

Rapp - Cross

1 You said, Still have never been a nominee.

2 He says, I am outraged.

3 You say, For a Tony. LOL. I thank you for your
4 outrage?

5 A. Correct.

6 Q. OK. Let's go on down. Where it says Brian under here, the
7 Brian Dennehy story, Brian Dennehy beat Mr. Spacey that year
8 for that Tony, right?

9 A. I don't remember.

10 Q. Weren't you backstage when all the awards were being
11 presented?

12 A. Yes. I don't remember who won what awards that year.

13 Q. For leading actor in a play?

14 A. Correct. I don't remember.

15 Q. OK. Let's go on down. I think that was the part I wanted.
16 That's OK. Take it off.

17 So he told you he was outraged that you hadn't ever
18 been nominated for a Tony, right?

19 A. Correct. That's what he said, yes.

20 Q. Now, as I understand it, your claim is that every media
21 interview you have given about Kevin Spacey has increased your
22 emotional trauma, true?

23 A. To some degree.

24 Q. You keep hedging and saying, to some degree, a little bit.

25 Isn't it true that you're seeking monetary

MACsRAP1

Rapp - Cross

1 compensation, a lot of it, because you claim than you have
2 emotional trauma, which includes emotional trauma from ever
3 speaking with the media about Mr. Spacey, true?

4 MR. SAGHIR: Judge, objection. There's been an order
5 on this very issue.

6 THE COURT: Sustained, at least as to form.

7 BY MS. KELLER:

8 Q. Is one of your claims for damages that every time you give
9 a media interview about Mr. Spacey, your emotional trauma
10 increases?

11 A. Correct.

12 Q. So even if you do a media appearance of your choosing,
13 you're increasing your trauma, true?

14 A. True.

15 Q. Now, you've also been given your profile has really been
16 raised as a result of making the claims you've made against
17 Mr. Spacey, right?

18 A. I don't know how to measure that.

19 Q. Well, Adam Rapp was not a household name, and probably
20 still isn't, before you made these claims, right?

21 A. Adam Rapp is my brother.

22 Q. I'm sorry. I'm sorry, you're right. I haven't had my
23 third cup of coffee this morning.

24 Mr. Rapp, your name was not a household word?

25 A. I don't -- I don't know -- I don't know how to qualify

MACsRAP1

Rapp - Cross

1 that.

2 Q. You didn't have an international profile?

3 A. I have performed internationally. I had some kind of
4 international profile.

5 Q. You didn't have a major international profile?

6 A. I don't -- that's speculation. I don't know how to answer
7 that question.

8 Q. Glowing statements have been made about you because of
9 this, right, because you came forward and accused Mr. Spacey?

10 A. I don't know how to answer this question, ma'am. This is a
11 very -- I wanted -- I take my oath very seriously. I want to
12 answer the question. I don't know how to answer that question.

13 Q. Let me be specific. The Advocate nominated you for person
14 of the year because of publicly accusing Mr. Spacey, right?

15 A. The Advocate nominated me for person of the year. I don't
16 know that that's true.

17 Q. You have been on TV shows and radio shows talking about
18 this, right?

19 A. I have been on -- I've done a couple of interviews about
20 this, yes.

21 Q. And you were also claiming that being lifted up, put on
22 that bed, and having Mr. Spacey fall on you 36 years ago is
23 still, still one of the most traumatic incidents in your entire
24 life, right?

25 A. He did not fall on me, ma'am.

MACsRAP1

Rapp - Cross

1 Q. OK. However it happened, you're claiming that this
2 incident that you allege was still 36 years later among the
3 most traumatic in your entire life?

4 A. Correct.

5 Q. Now, you have to raise your profile. You've made
6 accusations against other people, haven't you?

7 A. I don't know what you're referring to, ma'am.

8 Q. Well, for example, you're familiar with Yul Brynner?

9 A. Correct.

10 Q. And I think you talked on direct exam how you were in the
11 *King and I* with Yul Brynner and he was playing the king?

12 A. Yes.

13 Q. And Yul Brynner died in 1985, right?

14 A. Correct.

15 Q. But in 2019 you came forward with a story in *Entertainment*
16 *Weekly* entitled Anthony Rapp says Yul Brynner could be pretty
17 nasty, punched him in the stomach backstage at the King and I.

18 Do you remember that?

19 A. I do not remember this article, no.

20 Q. Can we have exhibit next in order which would be GGG. See
21 if that refreshes your memory.

22 A. It does not. I do not recognize this article.

23 Q. Do you remember stating in the article, if we can find
24 this, He punched me in the stomach when I was in his way. He
25 went, Get out of my way. It was backstage in the dark. He had

MACsRAP1

Rapp - Cross

1 been playing the king for 30 years at that point, so I think he
2 thought he was the king?

3 A. That's not what I'm reading.

4 Q. OK.

5 A. Now I see it, yes.

6 Q. Did you say that?

7 A. Yes.

8 Q. You said, If this happened in 2019, it would be a very
9 different story, right?

10 A. Correct.

11 Q. Was that the first time you told your Yul Brynner punched
12 you in the stomach story?

13 A. Not at all.

14 Q. Had you also told this to friends every time they praised
15 Yul Brynner?

16 A. Whenever -- I told it when I talked about my experiences
17 being in the *King and I*, if that came up.

18 Q. And also, April 5, 2019 --

19 MS. KELLER: And, your Honor, I would move that into
20 evidence, that exhibit.

21 THE COURT: This is the Exhibit GGG?

22 MS. KELLER: Yes, your Honor.

23 MR. SAGHIR: We don't have the exhibit. I've never
24 seen it. I would ask for a copy and to be able to review it.

25 MS. KELLER: We'll get that to you, counsel.

MACsRAP1

Rapp - Cross

1 THE COURT: Yes.

2 BY MS. KELLER:

3 Q. And on April 5 --

4 MR. SAGHIR: Judge, before we question, may I see the
5 exhibit, before we keep questioning about it, please?

6 THE COURT: She's moving to another subject, I
7 thought. No?

8 MS. KELLER: I'm sorry. I thought it was on counsel's
9 screen. I seem to see it.

10 MR. SAGHIR: I'm seeing about three lines. Can I get
11 the article, please?

12 MS. KELLER: Can we show counsel the portion,
13 Mr. Barron, where this quote appears.

14 MR. SAGHIR: I need the whole -- you're trying to --
15 Respectfully, I need the whole article.

16 THE COURT: Yes, I understand that. When we resume
17 tomorrow and henceforth, counsel who are going to use on cross
18 exhibits that have not previously been exchanged are to have
19 copies, hard copies in the courtroom, and to make a copy
20 available to the other side and to me.

21 This is standard procedure in 28 years of my
22 experience as a judge and 25 before that as a lawyer. I don't
23 know why we can't do it in this case. That goes to both sides.

24 MS. KELLER: We will, your Honor.

25 May I have a moment?

MACsRAP1

Rapp - Cross

1 THE COURT: Yes.

2 (Pause)

3 BY MS. KELLER:

4 Q. There was also an article in *People* magazine entitled
5 Anthony Rapp says King and I star Yul Brynner punched me in the
6 stomach once.

7 Do you remember that?

8 A. I do not.

9 Q. And you were on an Internet TV show where you told the
10 interviewer that Mr. Brynner punched you in the stomach, right?

11 A. I don't -- I don't know what you're referring to.

12 Q. Well, the Internet TV show actually showed a picture of you
13 in the article you just saw. Did that refresh your memory?

14 A. Yes. But I now know what you mean, yes.

15 Q. OK. And so you told her, the interviewer, that Mr. Brynner
16 punched you in the stomach, right?

17 A. Correct.

18 Q. Now, died in 1985. You were ten when you say this
19 happened?

20 A. Yes.

21 Q. But you thought it would get you publicity to say it in
22 2019 --

23 A. No, ma'am.

24 Q. -- that this has happened to you?

25 A. No, ma'am.

MACsRAP1

Rapp - Cross

1 Q. And it did get publicity, didn't it?

2 A. It turns out it did.

3 Q. Of course, Mr. Brynner couldn't defend himself at that
4 point, could he?

5 MR. SAGHIR: Objection.

6 THE COURT: Overruled.

7 A. Correct.

8 Q. And you also -- you also claim a bully violently attacked
9 you from behind when you were getting off the school bus,
10 right?

11 A. Yes. Yes, I know what you're talking about, yes.

12 Q. And that is one of the things that you told your therapist,
13 right?

14 A. Yes. Well, I'm sorry, you mean my therapist? I'm not sure
15 I had that conversation with Robin. I may or may not have. I
16 don't know.

17 Q. You talked about it with your expert who is going to
18 testify here, right?

19 A. Correct.

20 Q. You also say you were violently attacked by a group of men
21 in London when you were 15?

22 A. It was not a group of men, it was boys, and one -- one of
23 them punched me and kicked me.

24 Q. You didn't say that these three ruffians came up on us and
25 started being aggressive and that one of them punched you in

MACsRAP1

Rapp - Cross

1 the face, knocked you down, and kicked you in the head?

2 A. I did say that, yes.

3 Q. OK. And you've given -- you gave. Again, you gave your
4 therapist and -- well, I take that back.

5 You gave your expert who is going to testify in this
6 trial other examples of traumatic things that had happened to
7 you, right?

8 A. Correct.

9 Q. And to this particular psychologist, you did include your
10 Kevin Spacey story, right, because that's what this trial is
11 all about?

12 A. Yes, I answered her questions about that, yes.

13 Q. You told her you were hit by a drunk driver in Illinois in
14 1995?

15 A. Yes.

16 Q. And you discussed your relationship with Josh Safran, the
17 person you referred to yesterday?

18 A. Yes.

19 Q. He's a celebrity producer?

20 A. I suppose so, yes.

21 Q. You've had a relationship with him for a number of years?

22 A. Yes.

23 Q. Right?

24 You told the people who, Drs. Bardey and Rocchio in
25 connection with this trial, that he had never been violent with

MACsRAP1

Rapp - Cross

1 you, right?

2 A. That he had never been violent with me, correct.

3 Q. But didn't you tell your friend Erin Quill that Josh had
4 been violent with you?

5 A. I did not.

6 Q. Didn't you tell her he had hit you multiple times?

7 A. No, ma'am.

8 Q. And did you report to Dr. Rocchio that your husband Ken has
9 been abusive to you?

10 A. I did not report that he's been abusive to me, no.

11 Q. That he pushed you so hard that you fell on the ground?

12 A. I -- I shared with her, yes, that he pushed me and I
13 stumbled to the ground onto my butt, yes.

14 Q. Well, did you tell her he pushed me so hard that I fell to
15 the ground?

16 A. I don't remember the exact words I used, but yes.

17 Q. And multiple times you've had arguments with your husband
18 that had become violent, right?

19 A. Not correct. Not multiple times. I -- I don't know how to
20 answer that question. I would not say this -- two times, so I
21 guess that's multiple. But it was two times.

22 Q. Well, you told her about one occasion where Ken shoved you
23 and slapped you, right?

24 A. I don't recall saying that he slapped me.

25 Q. This is in connection with this case. This is the recent

MACsRAP1

Rapp - Cross

1 interview by Dr. Rocchio, your expert?

2 A. It was in early 2021.

3 Q. Right. And you told her that he slapped you and shoved you
4 and hit you in the shoulder?

5 A. OK.

6 Q. So --

7 THE COURT: Is that correct? Did you tell her that?

8 THE WITNESS: I -- I don't remember.

9 Q. Because --

10 THE COURT: Did you tell her that in substance?

11 THE WITNESS: In substance, some version of that, yes.

12 BY MS. KELLER:

13 Q. And you told her that Ken has also been mean-spirited
14 toward you, right?

15 A. At times.

16 Q. And that he's called you names and criticized you?

17 A. At times.

18 Q. Now, on direct examination when your lawyer was questioning
19 you, you said that you had a very good relationship with Ken,
20 it was very loving, and there had never been anything like
21 that.

22 Do you remember that?

23 A. I said there's never been anything like that. I do not
24 know that I said there's never been anything like that.

25 Q. Isn't the substance of what you said that you had this very

MACsRAP1

Rapp - Cross

1 loving and wonderful relationship?

2 A. I -- I do not know -- I don't know how to answer this
3 question.

4 Q. Isn't that the substance of what you testified to when your
5 lawyer asked you?

6 A. I -- I want to answer this question well. I do not know
7 what testimony you're referring to.

8 Q. But the worst event in your life was your Kevin -- one of
9 the worst events was your Kevin Spacey incident, is that right?

10 A. Correct.

11 Q. Now, the damages that you're asking the jurors to award you
12 are damages for your pain and suffering, is that right?

13 A. Correct.

14 Q. And the emotional pain that you have felt all these years,
15 right?

16 A. Correct.

17 Q. And understanding how what Kevin Spacey allegedly did to
18 you has impacted your life and your relationships and your
19 relationship to intimacy and sex?

20 A. In part, that is one of the things that I have been
21 exploring in therapy, yes.

22 Q. Well, I'm asking you whether you claim that this incident
23 that you say happened in 1986 has impacted you in your life and
24 your relationships and your relationship and intimacy and sex?

25 A. Yes. To some degree it has, yes.

MACsRAP1

Rapp - Cross

1 Q. Well, that's what your claim is, isn't it?

2 A. That's part of my claim.

3 Q. And there are also -- have you also claimed there are
4 layers of how it has impacted you in your life and your
5 relationships, right?

6 A. Yes.

7 Q. Layers and layers?

8 A. I don't know if I said layers and layers. There are layers
9 to it, yes.

10 Q. And when you consulted Dr. Collins, you were consulting him
11 about your relationship with Ken, right?

12 A. Yes.

13 Q. But you didn't talk about your Kevin Spacey story to him,
14 right?

15 A. Correct.

16 Q. And that's even though you had already decided that there
17 were layers of how it had impacted in your life and in your
18 relationships and your relationship with intimacy?

19 A. I had not decided any such thing at that time.

20 Q. So did you only decide in the last year or two?

21 A. It began to become apparent in 2017, when I began to talk
22 to Robin Magid about it.

23 Q. When you went out to *BuzzFeed* about it?

24 A. Not when I -- when I spoke to my therapist about it is when
25 it became -- started to become apparent to me.

MACsRAP1

Rapp - Cross

1 Q. You only talked to your therapist after you talked to Adam
2 Vary at *BuzzFeed*, right?

3 A. After having exploratory conversations with Adam Vary.

4 Q. Well, it was about to be published. It was long past the
5 exploratory phase. We've seen that in your text messages,
6 correct?

7 A. Incorrect, ma'am.

8 Q. Mr. Vary, you just didn't want her to be blindsided, you
9 didn't want her to see this in the media and say, what the
10 heck, all these years and you've never told me about it?

11 A. That is incorrect, ma'am.

12 Q. One of your claims is that you became abnormally
13 preoccupied with sex after you went to a party at Mr. Spacey's
14 apartment, right?

15 A. I'm sorry. Did you -- the question phrased, can you --

16 Q. Is one of your claims that you became abnormally
17 preoccupied with sex after you say you went to this party at
18 Kevin Spacey's apartment?

19 A. Yes.

20 Q. And you told your expert Dr. Rocchio that after that, you
21 were drawn to anyone expressing sexual interest in you and you
22 sought out sexual attention, right?

23 A. To some degree, at some points in my life.

24 Q. No, I'm not talking about some degree at different points,
25 I'm talking about directly afterwards?

MACsRAP1

Rapp - Cross

1 A. Not -- not everything you just said pertains to that,
2 directly afterwards.

3 Q. So are you saying that you developed an abnormal
4 preoccupation with sex that persisted throughout your life
5 because of Kevin Spacey?

6 A. I think it's complicated and difficult to answer that yes
7 or no.

8 THE COURT: Do your best.

9 THE WITNESS: I -- I -- I can recognize ways in which
10 I began to be aware of people's attention on me in that summer
11 and fall and thereafter, in a way that I had never been before
12 in my life.

13 Q. Do you think that pubescent males in general start to
14 become quite aware of sex and sexual attraction?

15 A. Perhaps.

16 Q. Perhaps?

17 A. Sure.

18 Q. Come on, we all know that, don't we?

19 A. It depends on the level of awareness.

20 Q. Don't you think that as males go through puberty and
21 experiencing sexual urges and physical manifestations of that,
22 that they develop an intense interest in sex?

23 Come on, Mr. Rapp.

24 MR. SAGHIR: Objection, argumentative.

25 THE COURT: Overruled.

MACsRAP1

Rapp - Cross

1 A. What is the question?

2 The question is do I think that young men become --
3 there is different parts of the question. I just want to make
4 sure I'm answering it.

5 THE COURT: I'll have the reporter read it back, and
6 you listen carefully, please.

7 (Record read)

8 A. I think some do and some don't.

9 Q. But in your case, you think it was because of Mr. Spacey?

10 A. It's not that simple.

11 Q. I notice that you've said several times it's not that
12 simple, and yesterday a number of times you used a similar
13 phrase, that I was oversimplifying things.

14 Is that a strategy that you're using when you testify
15 to try to deflect a yes-or-no answer?

16 A. It's not a strategy, ma'am. I take my oath very seriously.
17 I swear to tell the truth and nothing but the truth, and that
18 is what I am working very hard to do.

19 Q. But as we discussed yesterday, sometimes the truth and your
20 memory are different, right?

21 A. In some cases, yes.

22 Q. You told Dr. Rocchio you had a desperate edge and craved to
23 be desired and have sexual attention directed to you, right?

24 A. At certain times in my life, yes.

25 Q. And you trace that to Mr. Spacey?

MACsRAP1

Rapp - Cross

1 A. Aspects of it, yes.

2 Q. Including even today?

3 A. Um, I didn't say that. I've done a lot of work in the
4 meantime.

5 THE COURT: Mr. Rapp, answer the question.

6 A. I do not consider that true today.

7 Q. Now, with respect to your becoming hypersexual after this
8 incident you say happened with Mr. Spacey, you had no sexual
9 encounters with any boys or men during your entire senior year
10 of high school, isn't that right?

11 A. Through my entire senior year of high school?

12 Q. Yes.

13 A. I have to think. I have not thought of that period of my
14 life in quite a long time. I have -- I can't answer that
15 question without having a chance to think back. I don't know
16 how to answer that question, ma'am.

17 Q. I'm looking at your deposition testimony and I was trying
18 to go one by one, but let's put them together.

19 During your junior and senior years in high school,
20 you didn't remember having any sexual encounters, is that
21 right?

22 A. I -- I remember now. I don't know how --

23 What is the question?

24 Q. The question is, isn't it true that you had no sexual
25 encounters with men or boys during your junior or senior years

MACsRAP1

Rapp - Cross

1 in high school?

2 A. That is not my recollection in this moment sitting here
3 right now.

4 Q. But that was your recollection in the moment sitting right
5 there during your deposition, right?

6 A. To the best of my recollection, yes.

7 Q. And that was your recollection when you were interviewed by
8 Dr. Bardey, our expert, right?

9 A. I believe so.

10 Q. And that was March of 2021 that Dr. Bardey interviewed you,
11 right?

12 A. Yes.

13 Q. There was one other encounter that you told Dr. Bardey
14 about -- and I'm not going to go into it here -- but there was
15 one encounter that you had that you did not initiate, is that
16 right?

17 A. I don't know what you're referring to, ma'am. I -- I --

18 Q. I'm not going to go into it.

19 A. I understand.

20 Q. Is one of the things that you attribute to your Kevin
21 Spacey claimed incident that you have been unable to resist
22 sexual propositions from others, even when you're not
23 interested?

24 A. That is an aspect of it, yes.

25 Q. Is that true up until today?

MACsRAP1

Rapp - Cross

1 A. I -- I'm -- I'm in a monogamous relationship. It doesn't
2 come up today.

3 Q. But for the five years, for example, that you were on an
4 app called Grinder, OK, you were soliciting and being solicited
5 by other gay men, right?

6 A. I wasn't soliciting. I was being solicited.

7 MR. SAGHIR: Judge, I object to this.

8 THE COURT: Strike the answer. The jury will
9 disregard the last exchange.

10 BY MS. KELLER:

11 Q. Well, during periods of time when you were actively in the
12 market, as it were, for sexual partners, did you blame that on
13 Mr. Spacey?

14 A. I don't know how to answer that question. It's -- it's --
15 I didn't -- I don't know how to answer that question, ma'am.

16 Q. Do you blame him for that today?

17 A. I don't blame -- I don't know how to answer this question.

18 THE COURT: Let's move on.

19 MS. KELLER: I will do so, your Honor.

20 Your Honor, I believe that my cross is finished.

21 THE COURT: You're sure now?

22 OK. Any redirect?

23 MR. SAGHIR: Yes, your Honor. Thank you.

24 THE COURT: You may proceed when you're ready,
25 Mr. Saghir.

MACsRAP1

Rapp - Redirect

1 MR. SAGHIR: Thank you.

2 REDIRECT EXAMINATION

3 BY MR. SAGHIR:

4 Q. Good morning, Mr. Rapp.

5 A. Good morning.

6 Q. Anthony, on cross-examination you were asked by Ms. Keller
7 the following questions and gave the following answers at page
8 279:

9 "Q. You see the date on this op-ed piece is October 19, 2017,
10 correct?

11 "A. Correct.

12 "Q. Now, you had contacted Mr. Vary with your Kevin Spacey
13 story on October 11, 2017, eight days before Ms. Nyong'o's
14 story was in the *New York Times*, right?

15 "A. Correct. I did not recall that."

16 Q. Anthony, which article was published first, the Lupita
17 Nyong'o article or the *BuzzFeed* article?

18 A. The Lupita Nyong'o article.

19 Q. Was the article by Ms. Nyong'o the article that compelled
20 you to come forward?

21 A. The article by Lupita Nyong'o is what cemented and
22 confirmed that I was going to give the interview.

23 Q. Explain what you mean by that and why you were contacting
24 Adam Vary on October 11.

25 A. I was contacting Adam Vary to begin an exploratory

MACsRAP1

Rapp - Redirect

1 conversation about what might be involved if I were to come
2 forward, including how reporting would happen, how
3 corroboration would. Happen, and also in that time, I let him
4 know that I also needed to consult with Ken, I needed to
5 consult with my producers, I needed to think more deeply about
6 the ramifications of this. And it was after reading her
7 article and what she said about breaking silence that confirmed
8 for me that I'm going to go ahead and give the interview.

9 Q. You were asked the following questions and gave the
10 following answers on cross-examination, page 283, line 19:

11 "Q. You thought it would be poignant to say that you were
12 inspired to come forward by a superstar black actress that had
13 actually been sexually harassed, right?

14 "A. I did not think it was poignant. I thought it was what
15 had happened.

16 "Q. It would be useful for you, you would get more sympathy,
17 wouldn't you?

18 "A. No. I was sharing my memory of how it happened."

19 Q. Anthony, what, if anything, did Ms. Nyong'o being a black
20 superstar actress have to do with your reading the article and
21 responding to the article?

22 A. Nothing.

23 Q. Were you inspired by her article to come forward?

24 A. I was deeply inspired by her article.

25 Q. Why?

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Rapp - Redirect

1 A. Because of the powerful way that she spoke about breaking
2 silence to hold people empowered to account.

3 Q. Ms. Keller asked you the following questions and you gave
4 the following answers, page 295, line 19:

5 "Q. OK. Let's pause there. You've told your friend, the
6 reporter Adam Vary, a very different story in 2017, didn't you?

7 "A. I don't recall.

8 "Q. You omitted any mention of ever going backstage or meeting
9 Jack Lemmon and Kevin Spacey, you omitted any mention of that
10 in the *BuzzFeed* article, right?

11 "A. I don't recall."

12 Q. Anthony, when you say you don't recall, explain what you
13 mean.

14 A. I mean, we had lengthy conversations during the interview
15 process. I don't recall the details exactly how I shared them
16 with him, and I was taking very seriously my oath to tell the
17 whole truth.

18 Q. What, if any, involvement did you have in writing the
19 article for *BuzzFeed*?

20 A. I had no involvement in the writing of the article for
21 *BuzzFeed*.

22 Q. You were asked the following questions and answers by
23 Ms. Keller on cross-examination, line 21, page 303:

24 "Q. Did it occur to you, when Mr. Spacey asked Mr. Barrowman
25 and you to dinner, that he wanted to get to know Mr. Barrowman

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1 better?

2 "A. It did not occur to me, no."

3 Q. Anthony, why didn't it occur to you that Mr. Spacey wanted
4 to get to know Mr. Barrowman better than you?

5 A. I did not observe anything that Mr. Spacey did to him or to
6 me that would indicate that.

7 Q. You were asked the following questions and gave the
8 following answers, page 310 of the trial transcript, beginning
9 on line 20:

10 "Q. OK. Now, back to joining Mr. Barrowman and Mr. Spacey at
11 The Limelight, did it occur to you that you might be seen as
12 something of a tagalong?"

13 "A. It did not occur to me, no."

14 Q. Anthony, why didn't it occur to you at The Limelight that
15 you were a tagalong?

16 A. Because at The Limelight and at dinner and in the dressing
17 room, I felt very included in the conversations and in the
18 events that we were all participating in together.

19 Q. Anthony, you were asked the following questions, page 318
20 of the trial transcript, beginning lines 16:

21 "Q. You also claim the first time you had ever been to
22 Mr. Spacey's apartment was at an alleged party on a future
23 date, is that right?"

24 "A. Correct.

25 "Q. Although if I'm not mistaken, when you were being asked

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1 questions by Mr. Saghir, it sounded like you were maybe backing
2 off that a little bit. You were asked -- you said you didn't
3 recall being there another time.

4 "A. Correct.

5 "Q. And that's because you now know that Mr. Barrowman has
6 talked at length about how the two of you went to Mr. Spacey's
7 apartment after The Limelight?

8 "A. Correct."

9 Q. Anthony, after The Limelight, when you went there with
10 Kevin Spacey and John Barrowman, where did you go?

11 A. We went home to my apartment with my mom.

12 Q. Do you have any memory of going to Mr. Spacey's apartment
13 after The Limelight with John Barrowman?

14 A. I have no memory of that.

15 Q. Are you backing off on that, that you went home?

16 A. I'm not backing off on that.

17 Q. You were asked the following questions and gave the
18 following answers, page 323, beginning line 7:

19 "Q. Now, you didn't tell Dr. Bardey, when he interviewed you,
20 our psychiatrist, our expert on your damages, you didn't tell
21 him anything about the episode of having gone to Mr. Spacey's
22 apartment with John Barrowman, right?

23 "A. Correct.

24 "Q. Nothing about them being flirtatious with each other,
25 right?

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1 "A. Correct."

2 Q. Anthony, why didn't you tell Dr. Bardey about going back to
3 Mr. Spacey's apartment with John Barrowman after The Limelight?

4 A. I did not remember that happening.

5 Q. Why didn't you tell Dr. Bardey about John and Kevin Spacey
6 being flirtatious with each other that night?

7 A. I never observed them being flirtatious with each other
8 that night.

9 Q. You were asked questions about a conversation that you had
10 with John Barrowman in 1998 in London. Do you recall that?

11 A. I do.

12 Q. It was at that time that Mr. Barrowman told you for the
13 first time what had happened between he and Mr. Spacey,
14 correct?

15 A. Correct.

16 Q. Prior to having that meal with John Barrowman in London in
17 1998, did you have any indication or idea of anything that had
18 happened between John Barrowman and Kevin Spacey?

19 A. I had no idea or indication of that.

20 Q. When you met with John, when if ever did he tell you that
21 Kevin Spacey and he were flirting with each other?

22 A. He did not say that to me.

23 Q. When if ever did he tell you that he went and bought
24 flowers for Kevin Spacey?

25 A. He did not tell me that.

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1 Q. What did he tell you?

2 A. He told me that Kevin Spacey sent flowers to his house.

3 Q. What else did he tell you?

4 A. He told me when we were at The Limelight, Kevin Spacey was
5 touching his knee under the table all night long.

6 Q. What did he tell you Kevin Spacey did after John returned
7 back home to Illinois?

8 A. He told me that he called his house repeatedly.

9 Q. What did John tell you his parents had to do?

10 A. John told me that his parents had to ask Mr. Spacey to stop
11 calling.

12 Q. You were asked questions by Ms. Keller on cross about
13 similarities between what happened to Mr. Barrowman and what
14 happened to you with respect to Mr. Spacey.

15 Do you recall those questions?

16 A. I do.

17 Q. Tell us what, if anything, was similar between what John
18 Barrowman told you happened to him and what happened to you
19 with Kevin Spacey.

20 A. John expressed it to me as unwanted behavior on the part of
21 Mr. Spacey.

22 Q. You were asked questions on cross-examination by
23 Ms. Keller, page 339, line 3:

24 "Q. Now, having just visited Mr. Spacey with Mr. Barrowman
25 Day's before this alleged assault on you happened, you didn't

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1 even pick up the phone and tell Mr. Barrowman, Oh, my God,
2 you'll never believe what happened to me with Kevin Spacey, did
3 you?

4 "A. Correct.

5 "Q. You didn't communicate with him at all, right?

6 "A. Correct."

7 Q. Why didn't you tell John Barrowman what Kevin Spacey did to
8 you in his apartment in 1986?

9 A. He was not a close friend. He was not a confidante. I did
10 not have that kind of friendship with him.

11 Q. When if ever did you share intimate details prior to that
12 night in 1986 with John Barrowman?

13 A. Never.

14 Q. On cross-examination, Ms. Keller asked you many questions
15 about your mother being protective, about her being a chaperon,
16 attending every performance at *Precious Sons*, escorting you to
17 the Playhouse every evening, and you told her that you did not
18 agree with that. Do you recall that?

19 A. I do.

20 Q. Anthony, explain what your relationship was like with your
21 mom when you initially came to New York City to perform in
22 *Precious Sons*.

23 A. When I initially came, I was in rehearsals every day from
24 about 10:00 a.m. to 6:00 p.m. generally, and she would
25 accompany me to rehearsals which were in the West Village. At

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1 some of the performances, she did come to the theater and watch
2 the show. Many of the performances she did not. Many times
3 over the course of the time that I was in the show, I made my
4 way to and from the theater by myself without her. And as time
5 went on, I asserted my independence more and more, and she
6 granted me that freedom and independence more and more.

7 Q. And when you say she granted you that freedom and
8 independence, give us a sense of what that means.

9 A. It means I made my way to the theater, either would walk
10 there or take the subway there. I would -- if I was out after
11 the play, I would spend the time by myself with my cast mates
12 and any other people. That was all by myself, by -- in my
13 independence. And then sometimes she may be at some of those
14 events, but not all of them.

15 Q. Anthony, there is a lot of people who might be thinking,
16 a 14-year-old kid walking around at midnight or one in the
17 morning? Explain that.

18 A. I recognize that it was a very unusual life that I was
19 living. I was -- yes, I was living an unusual life for most
20 14-year-olds. I -- I had demonstrated my independence and my
21 ability to be trusted to be safe, and she granted me that
22 freedom.

23 Q. Anthony, you were asked many questions about the people who
24 were at the party that you went to at Kevin Spacey's apartment
25 in 1986. You told us you don't remember the ages, you don't

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1 remember if they had facial hair, you don't remember if they
2 were bald, young, old, male, female. Do you remember all those
3 questions?

4 Why is it that you don't remember the details of the
5 people who were at Kevin Spacey's party?

6 A. Because the memory that is seared in my memory from that
7 night was what happened in the bedroom with Kevin Spacey. I --
8 the other details are more vague and fuzzy to me.

9 Q. How long were you in the main room before you went to the
10 bedroom?

11 A. Not a very long time. A few minutes, at most.

12 Q. How many people did you speak to in the party?

13 A. I spoke to no one at the party.

14 Q. How many people did you know?

15 A. I knew only Kevin Spacey.

16 Q. How well did you know him?

17 A. Very little, just from the one evening that we had spent
18 together.

19 Q. You were asked the following questions by Ms. Keller, page
20 386, beginning line 23:

21 "Q. Now, when Mr. Spacey fell across your body, it was like a
22 dead weight, correct?

23 "A. He didn't fall across my body, ma'am.

24 "Q. OK. Let's use your language. You would describe it as
25 that as what, climbing on top of you?

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Rapp - Redirect

1 "A. Correct.

2 "Q. And he felt like dead weight, true?

3 "A. To some degree, yes."

4 "Q. When you said to some degree, yes, explain what you meant.

5 A. I meant that I felt the weight of his body, but it wasn't
6 dead. He was holding me with his arms and he was pressing his
7 pelvis into my hip.

8 Q. You were asked by Ms. Keller the following questions on
9 cross-examination, page 390, lines 22 and 23:

10 "Q. You knew Mr. Barrowman was gay, right?

11 "A. I did not."

12 Q. Explain what you knew about Mr. Barrowman when he came to
13 visit you in New York City in 1986.

14 A. The last I had known, he had a girlfriend. We never talked
15 about anything personal. He had not come out to me. I had no
16 idea he was gay.

17 Q. Have he shared any gay experience that he had in his life
18 prior to 1986 with you?

19 A. None whatsoever.

20 Q. Did you have any idea that he was gay when he came to visit
21 you?

22 A. I had no idea he was gay.

23 Q. I'll focus on page 399 of the trial transcript. Ms. Keller
24 asked you the following questions on cross-examination,
25 beginning at line 11:

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Rapp - Redirect

1 "Q. Mr. Rapp, I would like to talk with you about some of the
2 people you told your Kevin Spacey story to.

3 You said you went home after the party, right?

4 "A. Correct.

5 "Q. Despite how close you were, you didn't tell your mother,
6 right?

7 "A. Correct."

8 Q. Anthony, tell us why you didn't tell your mom.

9 A. We had never talked about sex at all. It seemed like if I
10 was going to tell her about this, it would open up that whole
11 door, which seemed incredibly complicated and intimidating and
12 overwhelming to contemplate. I didn't want to worry her and I
13 didn't want to lose my independence.

14 Q. When you say you didn't want to worry her, what do you
15 mean?

16 A. I mean, I -- she -- she probably would have been very
17 worried about this, and I didn't ever in general want to worry
18 her about me or my life.

19 Q. You were asked questions by Ms. Keller on cross-examination
20 about what you had told Christopher Hart, and you gave the
21 following answers to the following questions:

22 "Q. In your retelling of the story to Mr. Hart of what
23 happened back in New York with Mr. Spacey --

24 "A. Yes.

25 "Q. -- you never once mentioned that Mr. Barrowman even came

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Rapp - Redirect

1 to visit you?

2 "A. Correct.

3 "Q. Let alone that you had gone to a nightclub together?

4 "A. Correct.

5 "Q. Let alone that you had met Jack Lemmon together?

6 "A. Correct."

7 Q. And it goes on.

8 Anthony, why didn't you tell Christopher Hart about
9 those details of the night that you went to dinner and The
10 Limelight with Kevin Spacey and John Barrowman?

11 A. Because that was not the night of the incident in the
12 bedroom.

13 Q. Anthony, you were asked the following questions about a
14 relationship you had that broke off at the time of *Rent*. You
15 were asked those questions by Ms. Keller on cross-examination,
16 page 407, beginning line 13:

17 "Q. Wasn't that your own boyfriend you were talking about?

18 "A. Correct.

19 "Q. And, in fact, you ended a relationship with him because he
20 refused to come out, right, publicly?

21 "A. May I explain?

22 "Q. Well, is that true?

23 "A. It's -- it's not because he refused to come out publicly.
24 It's because he didn't want to be photographed with me at *Rent*,
25 at the opening night of *Rent*."

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Rapp - Redirect

1 Q. Anthony, explain what happened with your boyfriend that
2 night.

3 A. I, knowing how he felt about not wanting to be out, I
4 wanted to revisit the conversation as it pertained to him
5 joining me at the opening night of *Rent*, which was at that
6 point in my life the most important event of my life. My mom
7 was going to be there, so it was all very, very, very
8 meaningful. I wanted to reopen that conversation. I still
9 believed that I could try to separate the different ways we
10 felt about being out publicly. And it was in that conversation
11 that it really hit home that if I couldn't share these kinds of
12 most important moments of my life with my partner, I didn't
13 know a way forward to be in a relationship with him.

14 Q. Ms. Keller then read you a portion of your book, and I want
15 to read the complete paragraph, what followed after what she
16 read. I'll read the entire thing.

17 "At times I had felt as though I could never respect
18 him" -- referring to your boyfriend -- "for this decision
19 because to me, the stakes for queer people in America,
20 specifically young queer people, were too high for anyone with
21 a conscience to justify remaining in the closet, especially if
22 that someone was a public figure in a position to bring much-
23 needed attention to queer issues. On the other hand, I
24 recognized that each queer individual had a very personal
25 choice to make to reveal that aspect of his or her personal

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Rapp - Redirect

1 life or not to. Marcus was his own person and I was my own
2 person, and while I wished that he felt differently about being
3 in the closet, I did love him and I didn't want our differing
4 politics, as personal as they were, to determine the outcome of
5 our relationship."

6 Explain what you meant by that, when you said it
7 didn't -- you didn't want the politics to determine the outcome
8 of your relationship.

9 A. Yes, as I -- that -- that I could -- it's a way to try to
10 agree to disagree and still move forward. That's what I was
11 hopeful for.

12 Q. Was that able to work?

13 A. It was not able to work.

14 Q. You also wrote, and you were questioned about this
15 paragraph: "The stakes for queer people in America,
16 specifically young queer people, were too high for anyone with
17 a conscience to justify remaining in the closet, especially if
18 that someone was a public figure in a position to bring much-
19 needed attention to queer issues."

20 Explain what you meant by that.

21 A. I mean that visibility is what has made a difference in the
22 movement of more acceptance and freedom for queer individuals.
23 And people in the public eye with a platform have an
24 opportunity to continue to forward that visibility, and that
25 young people in particular are particularly vulnerable to

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Rapp - Redirect

1 discrimination and even being kicked out of their families and
2 threatened and bullied, etc. So visibility is meant to combat
3 that.

4 Q. You were asked the following question on cross-examination,
5 page 412, beginning line 8:

6 "Q. And also, what has come up with Ms. Quill is your
7 frustration and anger at other actors who are obviously gay to
8 you but in the closet and refuse to come out, right?

9 "A. Correct."

10 Q. What frustration and anger are you referring to?

11 A. I'm referring to, in some cases, when there are people who
12 are public figures who are themselves spouting homophobic
13 comments and/or enacting homophobic legislation and they are
14 gay. I think that that is -- I'm angry at that hypocrisy. And
15 I'm also frustrated that people who are in a position of power,
16 who have a powerful platform and security in many ways, don't
17 elect to take the opportunity to forward visibility.

18 Q. You were asked the following questions and gave the
19 following answers, trial transcript page 413, line 24:

20 "Q. And you responded to Ms. Quill's praise of Kevin Spacey by
21 telling her your Kevin Spacey story, right?

22 "A. Correct."

23 Q. Why did you tell Erin Quill your Kevin Spacey incident when
24 she told you about seeing *Lost in Yonkers*?

25 A. Well, she was a close friend of mine and his name came up.

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1 And as it did, I was, again, reminded of what had happened
2 between us and the -- the reminder of him reminded me of that
3 incident. And she was a close friend and I shared my
4 experience with her.

5 Q. You were asked the following questions and gave the
6 following answers, page 414, line 12:

7 "Q. And you've never won a Tony?

8 "A. Correct.

9 "Q. You've never been nominated for a Tony?

10 "A. Correct.

11 "Q. And, in fact, you were very, very deeply disappointed not
12 to be nominated and expected to be nominated for your role in
13 *Rent*, right?

14 "A. Correct."

15 Q. Anthony, in all the time that you've been an actor in the
16 theater, have you ever met an actor who wouldn't want to win a
17 Tony?

18 A. Probably not.

19 Q. Would you like a win a Tony some day?

20 A. Of course.

21 Q. Is winning a Tony award the reason that you're an actor?

22 A. It's not the reason I'm an actor.

23 Q. Explain that.

24 A. It would certainly be nice. I recognize that it can have a
25 positive professional impact. I recognize that it's very

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1 meaningful to my friends who have won Tony awards, what they
2 share with me, what that experience means to them. It would be
3 nice to have that experience. That feels like a bonus to the
4 opportunity to be a working actor, working on projects that I
5 care about, projects I can be proud of, projects that when I
6 have the chance to be part of something meaningful, that is
7 what is most important to me.

8 Q. When you say projects that you care about, what do you mean
9 by that?

10 A. I mean something like *Rent*, which to me puts forth into the
11 world values and subjects and stories that I can 100 percent
12 get behind. That is the epitome of a project that I care
13 about.

14 Q. You were asked the following questions and gave the
15 following answers, page 425 of the trial transcript on,
16 cross-examination by Ms. Keller when she was reading from an
17 article:

18 "Q. Quoting the article, although Rapp has had his share of
19 relationships with both men and women, he calls his current
20 boyfriend the love of my life. I have never been able to love
21 someone as openly and fully as I do him. Rapp's forthrightness
22 in discussing his personal life may seem courageous to some.
23 He has even stronger words for those who believe coming out is
24 still comparable to career suicide.

25 "Maybe they won't make 20 million a picture anymore,

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1 but who the fuck cares. If they haven't made enough money yet,
2 then I feel sorry for them. Ultimately, the difference they
3 could make in people's lives is so great, they really have
4 nothing to lose."

5 A. Yes.

6 Q. So when you're talking about people making 20 million a
7 picture, that was focusing on A-list actors, right?

8 A. Correct.

9 Q. Anthony, when you say, if they haven't made enough money
10 yet and I feel sorry for them, what did you mean by that?

11 A. I mean that, to me, values and principles are more
12 important than money.

13 Q. On page 428 of the trial transcript, you were asked the
14 following questions and gave the following answers:

15 "Q. And then you said you didn't see anything he was in after
16 *American Beauty*, right?

17 "A. Correct.

18 "Q. Did your duty stop?

19 "A. I felt that I had done my duty, yes.

20 "Q. So your duty was to see his films up until he made
21 *American Beauty* and then not after, is that right?

22 "A. I felt after *American Beauty*, I had seen enough and I did
23 not want anymore. It was not a matter of duty at that point
24 for me."

25 Q. When you say, after *American Beauty* you had seen enough and

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1 I did not want anymore, tell us what you meant.

2 A. I meant that every time I watched his work was difficult
3 and challenging, and that movie in particular was especially
4 difficult and challenging because of the subject matter that
5 was disturbingly familiar to me. And I recognized and I didn't
6 want to put myself through that difficulty anymore.

7 Q. Ms. Keller went on to ask you more questions about *American*
8 *Beauty* and recited the accolades of Kevin Spacey in that movie,
9 page 431 in the trial transcript beginning at line 1:

10 "Q. Acclaimed. So he was celebrated by others?

11 "A. Correct.

12 "Q. He won an Academy Award?

13 "A. Correct.

14 "Q. People praised it to the heavens?

15 "A. Correct.

16 "Q. But you're not willing to say he did a really good job,
17 you're only willing to say he was acclaimed, right?

18 "A. It was very difficult for me, especially in that movie, to
19 assess the quality of his performance.

20 "Q. Well, what was most difficult, Mr. Rapp?

21 It was that he won an Academy Award, wasn't it?

22 "A. No, ma'am."

23 Q. What was difficult?

24 A. As I'm watching him on the screen, I'm seeing the man who
25 climbed on top of me when I was 14 years old. And in that

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1 film, he had a sexual relationship that he pursued with a
2 teenage girl, and that was especially difficult.

3 Q. What, if anything, did Kevin Spacey winning an Oscar, an
4 Emmy, a Tony, whatever it might be, what did that have to do
5 with you stopping watching his movies?

6 A. It -- that didn't have to do with me stopping watching his
7 movies. I don't -- I ...

8 Q. What was it that made you stop watching his movies?

9 A. What I've said.

10 Q. You were asked the following questions and gave the
11 following answers on page 432 of the trial transcript:

12 "Q. You attended another Oscar party at Elizabeth Law's in
13 2000, right?

14 "A. Correct.

15 "Q. And he was up for another Oscar, a second Oscar we've just
16 been talking about, so you repeated again your Kevin Spacey
17 story to the party, right?

18 "A. Correct.

19 "Q. Every time he was up for an award, you would tell your
20 story to try to get the attention away from him and on to you,
21 right?

22 "A. That is not why I did it.

23 "Q. Tear him down and build yourself up?

24 "A. That is not why I did it."

25 Q. Tell us why you told people at the Oscar party what Kevin

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1 Spacey did to you.

2 A. Because when I saw him on the screen, I was reminded of
3 what he had done to me. I saw the man who climbed on top of me
4 when I was 14 years old, and I had already told my friend
5 Elizabeth at that time, so she asked again about it, and I
6 shared it again that night.

7 Q. You were asked questions by Ms. Keller on cross-examination
8 as to what it's like trying to get work as an actor, and she
9 asked you the following questions and you gave the following
10 answers, page 436, beginning on line 2:

11 "Q. And it's hard to get roles, it's hard to stay employed,
12 it's hard to do what you've done, right?

13 "A. At times it is, yes.

14 "Q. But did you really expect us to believe that you are not
15 envious of somebody who has won multiple Oscars, a Tony, hosted
16 the Tony's, nominated for multiple Emmys, won Golden Globes, I
17 won't go on. You wanted to be that person, didn't you?

18 "A. I did not want to be that person.

19 "Q. You wanted to have the career, that's what I mean?

20 "A. No, ma'am. I wanted to work as an actor.

21 Q. When you said you wanted to work as an actor, tell us what
22 you meant by that.

23 A. I mean, I wanted to have my career, where I got to be a
24 part of the projects that I could be proud of. And I wanted to
25 work as steadily as possible to afford me the opportunity to

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1 have as much choice as possible. And I wanted to work with
2 good people, I wanted to work with quality writing, I wanted to
3 be a part of a community that I loved since I was a child. I
4 wanted that to continue as long as possible in my life.

5 Q. When if ever did you want Kevin Spacey's career?

6 A. I never wanted Kevin Spacey's career. I wanted my career.

7 Q. Had you ever told anybody that you wanted Kevin Spacey's
8 career?

9 A. I never told anyone that I wanted Kevin Spacey's career.

10 Q. You were asked questions by Ms. Keller on cross-examination
11 about a text exchange you had with Adam Vary?

12 A. Yes.

13 Q. And in her questioning, Ms. Keller was focusing on you
14 saying that in 2008, you thought that you had met Kevin Spacey
15 at that time, which later turned out to be wrong, correct?

16 A. Correct.

17 Q. What did you say in response to Mr. Vary when he said we
18 can't place him in 2008?

19 A. I don't remember what I said.

20 Q. Do you have that?

21 MR. SAGHIR: This is in evidence, your Honor. This is
22 AA, your Honor, in evidence.

23 Q. Anthony, I'm showing you a portion of the text message.
24 Can you see that?

25 A. I can.

MACsRAP1

Rapp - Redirect

1 Q. I ask you to take a look at that and ask you, does that
2 refresh your recollection as to what you said?

3 A. Yes.

4 Q. So after you initially told Adam Vary that you believed it
5 was 2008, tell us what happened.

6 A. I -- I remembered the years that I had been at the Tony
7 awards, which were not very many, and I remembered that I was
8 there in 1999. And I also remembered the very specific
9 bathroom -- it's the way that it all clicked in my memory of
10 when it was. That was the beginning. It must have been then.
11 It was beginning to become clearer in my memory.

12 Q. With respect to the text messages that --

13 MS. KELLER: Your Honor, can we have a second here?
14 Our screen isn't working.

15 THE COURT: Of course.

16 (Pause)

17 MS. KELLER: Mr. Scolnick is doubling as an AV person
18 today.

19 THE COURT: Plugging it in often helps. Has it come
20 back up?

21 MS. KELLER: It has not.

22 Can we take a bathroom break while we're doing it?

23 THE COURT: We'll take 15 minutes here. And,
24 Rosemary, if you can call AV to come up.

25 Have you got it fixed?

MACsRAP1

Rapp - Redirect

1 MR. SCOLNICK: No, your Honor, I don't.

2 THE DEPUTY CLERK: OK. I'll get the jury.

3 THE COURT: How much longer, Mr. Saghir?

4 MR. SAGHIR: About ten minutes, your Honor.

5 (Recess)

6 THE COURT: Where's Mr. Rapp?

7 Here he is.

8 (Jury present)

9 THE COURT: Be seated.

10 You may continue, Mr. Saghir.

11 MR. SAGHIR: Thank you, your Honor.

12 BY MR. SAGHIR:

13 Q. Anthony, you were asked questions --

14 MR. SAGHIR: You can take down the exhibit. Thank
15 you.

16 Q. Anthony, you were asked questions by Ms. Keller about
17 telling Tracie Thoms about what Kevin Spacey did to you in
18 2004, 2005.

19 Did you tell Tracie Thoms what he did because you were
20 jealous of her or jealous of him?

21 A. I did not.

22 Q. Why did you tell her?

23 A. Because, as would happen, when she brought up his name, it
24 reminded me of what had happened between us and I shared with
25 her my experience. She was a close friend that we were working

MACsRAP1

Rapp - Redirect

1 together, became very close very quickly.

2 Q. Ms. Keller pointed out on her cross-examination that you
3 never told Dr. Collins about what Kevin Spacey did to you.

4 Why did you see Dr. Collins?

5 A. I saw Dr. Collins to get support in the early days, months
6 of my relationship with Ken.

7 Q. How long did you treat with Dr. Collins?

8 A. Very briefly. Several sessions. No more than ten.

9 Q. When if ever did Dr. Collins ask if you had been sexually
10 abused?

11 A. He never asked.

12 Q. Why didn't you tell him?

13 A. It -- it didn't come up in my thinking about any aspect of
14 what I was talking to him about. It wasn't -- it was not there
15 for me.

16 Q. When you say with what you were talking about, you're
17 referring to your relationship with Ken?

18 A. Correct.

19 Q. You were asked questions about your treatment with Robin
20 Magid?

21 A. Correct.

22 Q. And Ms. Keller pointed out that you've been in therapy for
23 20 or 25 years.

24 Let's be clear about the amount of therapy that you
25 have had with Robin Magid. Tell us the periods of time that

MACsRAP1

Rapp - Redirect

1 you have treat with Ms. Magid.

2 A. It was a more concentrated period of time when I was in
3 town from around -- from 1997 until sometime in the early, mid
4 2000s. I don't know the exact date. And then there were long
5 periods of time where I would check in with her every once in a
6 while for a number -- for many years until about 2016,
7 beginning of 2017.

8 MS. KELLER: Your Honor, this has all been asked and
9 answered.

10 THE COURT: Yes, indeed.

11 MR. SAGHIR: Briefly, your Honor, directly responding
12 to her cross. Just briefly.

13 THE COURT: It's not necessary.

14 Q. Ms. Keller on cross-examination made a big deal that you
15 did not include Kevin Spacey in your book without you.

16 Tell us why he wasn't in your book.

17 MS. KELLER: Asked and answered.

18 THE COURT: I'll allow it.

19 A. My book was centered around my experiences with being in
20 *Rent* and the death of my mother. And any stories that I told
21 about my childhood were directly related to aspects of things
22 that I talked to about with my mother. This is something I
23 never talked to about with her, so it didn't feel it was
24 relevant to the story I was telling in my book.

25 Q. Ms. Keller was also making a big deal about the fact that

MACsRAP1

Rapp - Redirect

1 you didn't anonymize Kevin Spacey or you could have.

2 Why didn't you do that in your book?

3 A. Well, if I were to anonymize him, I would have no idea how
4 to go about that without concealing anything about him or the
5 details, and that would create speculation and gossip and that
6 is not why I was writing my book.

7 MR. SAGHIR: Put up Exhibit AA, please. Go to the
8 third page, please.

9 Q. Are you able to see that text exchange, Anthony?

10 A. I do.

11 Q. You were asked questions by Ms. Keller about your
12 conversation with Adam Vary and not being nominated?

13 A. Correct.

14 Q. This text exchange on the bottom of page three and the top
15 of page four, if you can show that as well.

16 Is that the text exchange you had with Mr. Vary about
17 not being nominated for an Oscar?

18 A. Correct. Tony, yes.

19 Q. I'm going to read that and ask you a question about it.

20 A. OK.

21 Q. Well, this is you in the blue.

22 Well, I didn't have a seat in the theater, so it has
23 to have been during the rehearsal time earlier in the day.

24 Those jerks, Adam Vary said.

25 You say, Ha, I wasn't a nominee.

MACsRAP1

Rapp - Redirect

1 Then Adam Vary, in all caps, Your character's name was
2 in the title.

3 Then you say, Still have never been a nominee.

4 He says in all caps, I'm outraged.

5 You say, For a Tony. Then you say, LOL. I thank you
6 for your outrage.

7 Explain that text exchange to us.

8 A. Um, it was a playful text exchange. His all caps were in a
9 joking manner, as there is any number of times when we had all
10 caps joking text exchanges. It was in that spirit.

11 Q. You testified on cross-examination that when you do media
12 appearances that it increases your trauma from what Kevin
13 Spacey did to you.

14 Explain that for us.

15 A. Um, well, media -- media appearances and interviews related
16 to these events?

17 Q. Correct.

18 A. Yes. Well, anytime that I'm coming into the public to talk
19 about this, it's an opening up of a painful and traumatic
20 experience. Yes, so it -- it triggers painful memories, and
21 it's something that I'm willing to do to continue to speak the
22 truth.

23 Q. Anthony, there is a lot of press covering this trial.

24 They've been outside the courthouse every day.

25 Have you spoken to the press one time about this

MACsRAP1

Rapp - Redirect

1 trial?

2 A. I have not.

3 Q. Ms. Keller asked you about Yul Brynner and when he punched
4 you in the stomach backstage.

5 How if at all has that affected you throughout your
6 adult life?

7 A. It has not.

8 Q. Ms. Keller brought up a time that you were beat up when you
9 were a kid or knocked down from a school bus.

10 How does that affect you in your adult life?

11 A. It does not.

12 Q. She also asked you about an instance where you were punched
13 in London.

14 Have you ever been back to London after that?

15 A. I have indeed.

16 Q. How does that affect you in your adult life?

17 A. It does not.

18 Q. She also mentioned that you were hit by a drunk driver.

19 Tell us what happened.

20 A. I was going on an onramp and a car came the -- going the
21 wrong way, and I swerved to miss him and his car hit my car's
22 rear wheel. I spun out. Somehow all the other traffic missed
23 hitting either of us.

24 Q. Were you injured?

25 A. I was not injured.

MACsRAP1

Rapp - Redirect

1 Q. Have you continued to drive cars?

2 A. Yes.

3 Q. How if at all did that experience impact your adult life?

4 A. Not at all.

5 Q. Ms. Keller on cross-examination said that Ken has been
6 abusive to you.

7 Do you recall that?

8 A. I do.

9 Q. Has Ken ever been abusive to you?

10 A. He has not.

11 Q. Have you had certain altercations with Ken over the time?

12 A. We've had a couple of altercations.

13 Q. Tell us about the two times and tell us what happened.

14 A. I don't remember the content of the disagreement. In a
15 disagreement, there were shoves back and forth. And another
16 time there was a shove that resulted in me falling on my butt,
17 and I was not injured in either of those times. And these were
18 all incidents that happened several years ago.

19 Q. When you say they happened several years ago, what's the
20 importance of that, if any?

21 A. That through the support of our therapist, we've gone
22 through a lot of work, and we are in a very healthy and strong
23 and committed place and have been for some time.

24 Q. She also mentioned that Ken has been mean-spirited to you
25 and called you names.

MACsRAP1

Rapp - Redirect

1 Do you recall that?

2 A. I do.

3 Q. Were there certain times early in the relationship that the
4 two of you argued or fought?

5 A. Correct.

6 Q. Explain that.

7 A. Just that, that there were times when, in the heat of the
8 moment, he said some things that I felt were mean.

9 Q. Ms. Keller stated to which you agreed about what Kevin
10 Spacey had done to you was the worst event in your life.

11 Do you recall that?

12 A. Can you repeat the question?

13 Q. Sure. Ms. Keller asked you about what Kevin Spacey had
14 done to you and whether or not that was one of the worst events
15 in your life.

16 Do you recall that?

17 A. I do.

18 Q. OK. Was what Mr. Spacey did to you, was that one of the
19 most traumatic events in your life?

20 A. It was indeed.

21 Q. Was it indeed the most traumatic event?

22 A. It was the most traumatic single event.

23 Q. Certainly you've had other traumatic events in your life,
24 correct?

25 A. Correct.

MACsRAP1

Rapp - Redirect

1 Q. So why is it that you identify what Kevin Spacey did to you
2 as the most traumatic event?

3 A. It is the thing as I look back through my life, that the
4 way that it's recurred, the reactions that I've had, my
5 understanding of trauma, I understand that the way that that
6 experience linked back to that experience and the affect that
7 it's had over me over time and continues to have, especially in
8 very specific situations, is directly related to trauma, as
9 distinct from these other events that were indeed traumatic or
10 upsetting, but didn't have that same lingering impact.

11 Q. When you say that same lingering impact, what is it that
12 you're referring to?

13 A. I'm referring to those moments when I've felt like I was
14 hit with a cattle prod, with the moments of disturbing invasive
15 thoughts and memories, the moments of frozen in fear and seeing
16 him. The moments of even -- even being able to overcome that
17 feeling, but the effort involved in having to put it aside.
18 All of that over the years has been the impact that I've felt
19 from what happened that night.

20 Q. Ms. Keller was asking you questions about your text
21 exchange with Adam Vary on October 11 and how the Lupita
22 Nyong'o article came out sometime after.

23 On cross-examination, you testified that those were
24 exploratory conversations you were having with Adam Vary. What
25 did you mean when you said those were exploratory

MACsRAP1

Rapp - Redirect

1 conversations?

2 A. I was -- I seriously wanted to come forward, but I did not
3 know what would be involved in that. I did not know what the
4 reporting process was going to be, if this was in fact going to
5 happen. I did not know yet all of the conversations I needed
6 to have in my life to make sure that I was -- had the support I
7 needed and all the information I needed that I had really, with
8 Ken, considered the possible impact.

9 So it was the beginning of a process that didn't
10 complete until I actually said yes, now I'm ready to have an
11 interview and have this story go on the record and be
12 published, which happened on October 24th.

13 (Continued on next page)

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MACKRAP2

Rapp - Redirect

1 BY MR. SAGHIR:

2 Q. And when was that in relation to the Lupita Nyong'o
3 article?

4 A. Her article came on October 19th.

5 MR. SAGHIR: Could you please put up Exhibit AA.

6 Thank you.

7 If you could scroll up to the first page, please.

8 Q. Mr. Rapp, you were asked several questions about
9 misremembering when you saw Kevin Spacey at the Tonys, and then
10 you had said it was 2008.

11 Do you recall that?

12 A. What I had originally said it was 2008, yes.

13 Q. Correct.

14 I'm showing you what's been marked as Exhibit AA, and
15 I'd like to read from that.

16 MR. SAGHIR: And, Angella, if you could scroll down as
17 I do.

18 Q. For clarity, Adam Vary is in the white text box.

19 "One thing to make you aware of, we can't seem to
20 place Spacey at the Tonys in 2008. He didn't present and
21 wasn't nominated, and there's no photos we can find. We don't
22 doubt he was there, but we don't want to nail down a specific
23 date that Spacey could then just flatly deny. We're still
24 looking, but if we can't nail it down, we'll likely say that
25 you saw him at an industry event or some such. (Similarly,

MACKRAP2

Rapp - Redirect

1 we're also going to steer away from exact specificity in the
2 story of the party). I asked Adam Pascal if he remembered
3 Spacey being there, and he said, quote, 'I didn't remember that
4 I was there until you told me about it.'"

5 Then you said: "Oh, it could have been the year of
6 Charlie Brown. That makes more sense now that I can think of
7 it. That would be 1999. Can you check that?"

8 Mr. Rapp, at any time did you tell Adam Vary to steer
9 clear of any specific dates?

10 A. I did not.

11 Q. At any time, did you tell Adam Vary to be vague?

12 A. I did not.

13 Q. Did you ever withhold any information from Adam Vary?

14 A. I did not.

15 Q. And, in fact, as we can see from this text exchange, as
16 soon as he said 2008, you recalled the correct time of 1999,
17 correct?

18 THE COURT: Sustained.

19 MR. SAGHIR: Put up Exhibit Z, please.

20 Q. Anthony, are you able to see Exhibit Z?

21 A. Is that the text exchange with Adam?

22 Q. Yes. From October 11th.

23 A. Yes.

24 Q. I'm going to focus on the text exchange in blue, and that
25 is your text exchange, correct?

MACKRAP2

Rapp - Redirect

1 A. Correct.

2 Q. It's October 11th, 2017, at 2:47 p.m., and you wrote, "Hey,
3 my friend. Can you call me when you get a chance? In the wake
4 of the Harvey Weinstein story and its fallout, I am wanting to
5 speak out about someone else very powerful in our industry, but
6 I would want to try to do it in the best, most effective manner
7 and would want your help and participation if you feel it would
8 be appropriate."

9 Anthony, when you said, "I would want to try to do it
10 in the best and most" efficient manner -- "effective manner,"
11 pardon me, tell us what you meant.

12 A. I meant that what I was witnessing in the way that the
13 women who had come forward about Harvey Weinstein, the way that
14 they were being given -- their voice was being heard, the way
15 that it was being reported with integrity and courage on the
16 part of the authors of the article, as well as the women coming
17 forward, that, to me, was a demonstration of effective and the
18 best manner. It was being taken seriously, and it was making a
19 difference. And I wanted, if I was going to come forward with
20 this, to have the possibility of making a difference.

21 Q. Anthony, you were asked a number of questions on
22 cross-examination about why you came forward, and Ms. Keller
23 suggested you came forward for publicity, you came forward to
24 raise your profile, you came forward to improve your career.

25 Did you do that?

1 MACKRAP2

Rapp - Redirect

1 A. No, sir.

2 Q. Tell us why you came forward in 2017 to BuzzFeed.

3 A. I came forward because I knew I was not the only one that
4 Kevin Spacey had made inappropriate sexual advances to.

5 MS. KELLER: Objection; form.

6 THE COURT: The answer is stricken, and the jury will
7 disregard it completely.8 MR. SAGHIR: Judge, may we be heard on this issue?
9 This is my last question.

10 THE COURT: Come to the sidebar.

11 (Continued on next page)

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MACKRAP2

Rapp - Redirect

1 (At the sidebar)

2 MR. SAGHIR: Judge.

3 MR. STEIGMAN: Your Honor, there are pages and pages
4 and pages of Mr. Rapp's deposition which he was asked numerous
5 questions, and he gave very clear answers about all of the
6 specific experiences he had heard firsthand, secondhand, from
7 other people, how that influenced him, how he felt guilty for
8 not having reported it, like this was happening because he
9 hadn't told anybody, and he went through, at tremendous length
10 in Mr. Scolnick's questioning, all of the psychological reasons
11 he felt like he wanted to do it and needed to do it. We didn't
12 go there on direct. Ms. Keller spent an awful lot of time on
13 cross suggesting you did this because you wanted to be a bigger
14 star, you did it for publicity. They opened the door, so it
15 would certainly be appropriate to give a limiting instruction
16 it's not coming in for the truth, but they have made a big deal
17 of the operation of his mind, and we simply can't tell the
18 truth. The jury is left with an incomplete impression.

19 THE COURT: Ms. Keller.

20 MS. KELLER: Your Honor, he was asked at his
21 deposition what he had firsthand knowledge of, and he only had,
22 as I recall, maybe three instances where he claimed people --

23 THE COURT: Three?

24 MS. KELLER: Three instances where he claimed people
25 had told him. One was a grown man who said that Kevin made a

MACKRAP2

Rapp - Redirect

1 pass at him, one was a grown man in a steam room who said Kevin
2 walked out naked in front of him, and he could see his penis
3 hanging out, and the third one was somebody else who said -- a
4 grown man who said that he had gone to dinner with him, and
5 then Kevin tried to kiss him or did kiss him, that's it. There
6 was nothing that had anything to do with what Mr. Rapp is
7 talking about here, but what they want to do is use rumor,
8 innuendo, and to try to make it sound like he's saving other
9 kids from this happening to them.

10 THE COURT: Yes, look, the ruling stands. We're not
11 having a trial by rumor.

12 (Continued on next page)

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MACKRAP2

Rapp - Recross

1 (In open court)

2 THE COURT: The ruling stands.

3 BY MR. SAGHIR:

4 Q. Anthony, you heard in the opening, and you heard on
5 cross-examination, that you're a liar, that you have been
6 making this up since you were 14.

7 Have you been lying about what Kevin Spacey did to you
8 in his apartment?

9 A. I have not. It's something that happened to me that was
10 not okay.

11 MR. SAGHIR: Thank you.

12 THE COURT: Thank you.

13 Anything further, Ms. Keller?

14 MS. KELLER: Yes, your Honor, and I will be brief.

15 RECROSS EXAMINATION

16 BY MS. KELLER:

17 Q. Mr. Rapp, I want to go back to what you had to say about
18 Ms. Nyong'o's story inspiring you.

19 Until this very trial, you have claimed that it was
20 the very day you read her story that you became inspired and
21 knew you had to come forward, right?

22 A. Correct.

23 Q. And, in fact, you said you were so moved, to your core, so
24 shaken and moved, reading her story, that you reached out to
25 your friend, Adam Vary, that very same day, right?

MACKRAP2

Rapp - Recross

1 A. Correct.

2 Q. And you also told that story publicly, right?

3 A. Correct.

4 Q. But we've established that that story didn't come out for
5 over a week after you contacted Adam Vary, true?

6 A. True.

7 Q. And as I understand it, now you're saying, well, what you
8 really meant was that it was sort of a work in progress, that
9 you didn't -- hadn't fully and completely decided whether to go
10 forward with it, right?

11 A. Correct.

12 Q. But back in 2001, you tried to get The Advocate to print
13 the story. You told your Kevin Spacey story to the reporter
14 from The Advocate, we've already gone through that, right?

15 A. I wouldn't characterize it as trying to get The Advocate to
16 print the story.

17 Q. Well, you were in an interview, you used Mr. Spacey's name
18 with that reporter, right?

19 A. Correct.

20 Q. And it was only after it was published that you found out
21 that The Advocate couldn't print his name, their own internal
22 policies prevented them from doing so, right?

23 A. Correct.

24 Q. So, you fully intended in 2001 to say the story publicly
25 and have it come out about Mr. Spacey, right?

MACKRAP2

Rapp - Recross

1 A. We were in -- having conversation. I did not have an
2 intention to have it come out publicly. We were having an
3 interview. I had no idea of what he may or may not print in
4 that interview.

5 THE COURT: Look, Mr. Rapp, do you really believe that
6 there is no connection between interviews and publications?

7 THE WITNESS: Yes. The nature of that interview was a
8 very different kind of interview, your Honor.

9 THE COURT: Okay.

10 BY MS. KELLER:

11 Q. You did know that you were being interviewed by a reporter
12 for a publication, right?

13 A. Yes.

14 Q. A publication meaning something that becomes public?

15 A. Yes.

16 Q. Okay. Now, I also want to ask you, you said that you felt
17 it was your duty as an actor to see all these movies, but after
18 *American Beauty*, it was no longer your duty, right?

19 A. Some version of that, yes.

20 Q. And that's because one of the major reasons is that it was
21 so disturbing to see Mr. Spacey's character in that film having
22 a sexual relationship with a teenage girl, right?

23 A. Correct.

24 Q. But in the film, his character didn't have a relationship
25 with a teenage girl, right?

MACKRAP2

Rapp - Recross

1 A. I don't remember the details. He wanted to have a
2 relationship with a teenage girl.

3 Q. Well, the details were about a middle-aged man having a
4 fantasy, right?

5 A. Okay.

6 Q. A fantasy about that.

7 And then at the end of the movie, perhaps you will
8 recall, that when he has a chance to make his fantasy come
9 true, he chooses not to, he does the right thing?

10 A. I don't recall.

11 MR. SAGHIR: Objection.

12 Q. As far as not speaking to the media during trial, you were
13 asked about that in the context of all the things you've done
14 to raise your profile by telling your Kevin Spacey story up
15 until now.

16 You understood, did you not, that Judge Kaplan had
17 made it very clear to the parties that he did not want the
18 parties trying this case in the media?

19 MR. SAGHIR: Objection.

20 THE COURT: What's the objection?

21 MR. SAGHIR: I withdraw the objection.

22 THE WITNESS: I'm sorry, I don't understand the
23 question.

24 BY MS. KELLER:

25 Q. You understood, did you not, that Judge Kaplan had made it

MACKRAP2

Rapp - Redirect

1 very clear at the beginning that he did not want the parties
2 trying this case in the media, right?

3 A. Correct.

4 Q. So, you knew that if you did speak to the media, it would
5 really run afoul of what the Court had -- the rules that the
6 Court had asked us to respect, right?

7 A. Correct.

8 Q. So, it wasn't that you didn't want the PR, it's that you
9 didn't want to run afoul of Judge Kaplan, right?

10 A. What is the question?

11 Q. The question is: It's not that you decided, I won't speak
12 to the media because I'm not going to try to get publicity for
13 myself, it's because you knew Judge Kaplan didn't want us to do
14 that, right?

15 A. No, ma'am.

16 MS. KELLER: Your Honor, I have nothing further.

17 THE COURT: All right. Thank you.

18 MR. SAGHIR: Two questions?

19 THE COURT: Mr. Saghira.

20 REDIRECT EXAMINATION

21 BY MR. SAGHIR:

22 Q. Anthony, when you gave that interview to The Advocate in
23 2001 and told what it is that Kevin Spacey had done to you, did
24 they submit the questions to you in advance to review?

25 A. Not at all.

MACKRAP2

Rapp - Redirect

1 Q. Did you know what questions they were going to ask?

2 A. No.

3 Q. Were you just responding to the questions of the
4 interviewer?

5 A. I was.

6 Q. What is it that you recall seeing in *American Beauty*?

7 A. I recall seeing Kevin Spacey desiring and having some kind
8 of sexual relationship with a teenage girl. That is what I
9 recall.

10 MR. SAGHIR: Thank you.

11 THE COURT: Tell me we're not going to have the movie
12 shown.

13 MS. KELLER: Nothing further, your Honor.

14 THE COURT: I want an agreement about what's in it.

15 MR. SAGHIR: Stipulated. So stipulated.

16 THE COURT: No, no, no, I'm serious about that.

17 MR. STEIGMAN: A stipulation with regard to the facts
18 of the movie?

19 THE COURT: Yes.

20 Okay. You're excused, Mr. Rapp.

21 THE WITNESS: Thank you.

22 (Witness excused)

23 THE COURT: Next witness.

24 MR. SAGHIR: Your Honor, we call Christopher Hart to
25 the stand.

MACKRAP2

Hart - Direct

1 THE COURT: Mr. Steigman, at your convenience, can you
2 pick up your volume?

3 MR. STEIGMAN: That works. Thank you, Judge.
4 CHRISTOPHER HART,

5 called as a witness by the Plaintiffs,
6 having been duly sworn, testified as follows:

7 THE WITNESS: My name is Christopher Hart, and it's
8 spelled C-h-r-i-s-t-o-p-h-e-r, H-a-r-t.

9 THE COURT: You may proceed.

10 MR. SAGHIR: Thank you, your Honor.

11 DIRECT EXAMINATION

12 BY MR. SAGHIR:

13 Q. Good afternoon, Mr. Hart.

14 A. Hi.

15 Q. Mr. Hart, I'm going to ask you to keep your voice up so we
16 can hear you all the way back here, okay?

17 A. Got it.

18 Q. With the microphone in front of you.

19 A. Okay.

20 Q. Where do you presently live, Mr. Hart?

21 A. In San Francisco.

22 Q. How long have you lived there?

23 A. About nine months.

24 Q. How old are you?

25 A. I am 51.

MACKRAP2

Hart - Direct

1 Q. Can you tell us where you were born and where you grew up?

2 A. I was born in Homestead, Florida, but I grew up around
3 Chicago, in Joliet, Illinois.

4 Q. Mr. Hart, tell us about your educational background, if you
5 would, up through the end of high school.

6 A. Okay. So, I went to Troy schools, which is in the suburbs
7 of Joliet, and I went there for grade school, middle school,
8 and then for high school, I went to Joliet West until the first
9 semester of my junior year. For my second semester, at the
10 beginning of '87, I went to a school in South Carolina, and I
11 was only there that semester, and then I graduated from school
12 in St. Johns, Michigan, where I spent my whole senior year.

13 Q. Just briefly, why is it that you went from Joliet to South
14 Carolina and then up to Michigan?

15 A. My dad's job changed.

16 Q. Mr. Hart, when you say that you left Joliet in your first
17 semester of junior year, approximately when would that be?

18 A. I'm not precisely sure when we moved, but it would have
19 been December or the very beginning of January.

20 Q. Of what year?

21 A. '86 into '87, because I started school in South Carolina in
22 January of '87.

23 Q. What year did you graduate high school in Michigan?

24 A. 1988.

25 Q. So, you've taken us through high school.

MACKRAP2

Hart - Direct

1 Tell us what you did after high school, in terms of
2 college and any further education.

3 A. After high school, I went to college in North Carolina, at
4 the University of North Carolina Wilmington, for my first two
5 years, and then I took a break and went into the army, where I
6 was a Russian linguist and cryptologist.

7 Q. I didn't catch that?

8 A. I'm sorry. I went into the army, where I was a Russian
9 linguist and cryptologist. And then after the army, I went
10 back to North Carolina and finished at the University of North
11 Carolina Greensboro.

12 Q. What degree did you graduate with?

13 A. English.

14 Q. In what year?

15 A. 1995.

16 Q. What do you do for a living?

17 A. I'm the assistant general manager for Saks Fifth Avenue in
18 San Francisco.

19 Q. Can you tell us what you do as the assistant general
20 manager? Give us a sense of your daily duties.

21 MR. SCOLNICK: Objection, your Honor; relevance.

22 THE COURT: I'm sorry, what happened?

23 MR. SAGHIR: I'm just asking about his basic duties as
24 an assistant general manager for Saks Fifth Avenue.

25 MR. SCOLNICK: My objection is on relevance, your

MACKRAP2

Hart - Direct

1 Honor, 401, 403.

2 THE COURT: Who is speaking? I'm sorry.

3 MR. SCOLNICK: I'm sorry, your Honor. I'm speaking,
4 it's Chase Scolnick.

5 THE COURT: Get closer to the microphone so I can
6 understand you.

7 MR. SCOLNICK: Yes, your Honor.

8 Objection; 401, 403.

9 THE COURT: Sustained.

10 BY MR. SAGHIR:

11 Q. Mr. Hart, did you grow up with Anthony Rapp?

12 A. I did.

13 Q. Tell us when you first met Anthony.

14 A. I think it was probably fifth or sixth grade.

15 Q. How is it that the two of you met?

16 A. We had classes together, and we were also in choir
17 together.

18 Q. What is the age difference between you and Anthony?

19 A. I'm 11 months older than he is.

20 Q. Were you two in the same grade throughout middle and high
21 school?

22 A. Yes, we were.

23 Q. So, tell us about your friendship with Anthony in middle
24 school and high school, the type of activities you would do
25 together, and how you spent your time.

MACKRAP2

Hart - Direct

1 A. Pretty much everything nerdy that you can imagine.

2 Watching Dr. Who on, you know, Sunday nights, playing Dungeons
3 & Dragons together with our friends, we'd go to the mall, go to
4 the arcade, hang out, walk around the neighborhood.

5 Q. How would you describe your friendship with Mr. Rapp in
6 high school and in middle school?

7 A. It went through a lot of stages. When we first became
8 friends, we were like a group of friends, he was one of the
9 group, and we always did group things. Eventually, we became
10 closer, and, you know, he would spend the night, and we'd have
11 sleepovers, we would go to the movies together, go to the mall
12 together, things like that.

13 Q. So, when you talk about the period of time when you became
14 closer, give us a sense of what grade you were in or how old
15 you were at that time.

16 A. I think we started getting close around seventh grade.
17 Like, you know, probably seventh through ninth was our peak
18 where we were very, very tight.

19 Q. Did you remain friends at the time that you left Joliet to
20 go to South Carolina?

21 A. No. So, we had a falling-out somewhere in the beginning of
22 my junior year, so beginning of -- yeah, junior year of high
23 school.

24 Q. When we talk about the beginning of your junior year of
25 high school, what date are you referring to, what year?

MACKRAP2

Hart - Direct

1 A. I guess that would have been September-ish of '86.

2 Q. Do you recall what it was that you had this falling-out
3 over with Mr. Rapp?

4 A. I have no idea. We were teenage boys, and, you know, boys
5 fight, and, you know, to this day, I have no idea why we got
6 into that.

7 Q. Did you do any plays with Anthony while you were in high
8 school?

9 A. Just one.

10 Actually, it wasn't when I was in high school, I was
11 still in eighth grade.

12 Q. Tell us what play.

13 A. I was in *Oliver* with him, and that was at the local high
14 school, but we were still in middle school.

15 Q. Did there come a point in time that Anthony left to go to
16 New York to perform in *Precious Sons*?

17 A. Yes.

18 Q. Were you aware of that, when he went there?

19 A. Yes.

20 Q. Approximately how long was he gone?

21 A. I think that he was gone, like, pretty much the whole
22 second semester of our sophomore year.

23 Q. When Anthony came back from New York in the summer of 1986,
24 did the two of you get together?

25 A. Yes.

MACKRAP2

Hart - Direct

1 Q. Tell us about that.

2 A. You know, I was excited that he was back, so we arranged a
3 sleepover fairly shortly after he came back, so that would have
4 been sometime, I guess, in June because I was out of school at
5 that point.

6 Q. Did there come a time when Anthony told you about an
7 experience that he had with Kevin Spacey?

8 A. Yes.

9 Q. And, for clarity, when is it that he told you that,
10 approximately?

11 A. That would have been that first time that he stayed over,
12 and, you know, we finally were able to kind of reconnect and
13 catch up.

14 Q. So, what month and year are you referring to?

15 A. That would be June of 1986.

16 Q. How did the topic come up?

17 A. I don't know exactly how it came up. I know we were
18 talking about his time in New York, you know, so I don't
19 remember specifics about the whole conversation, but we
20 obviously were 14-year-old boys, 15-year-old boys, we talked
21 about sex, so it seems like there's a natural inclusion for
22 that to start that conversation.

23 Q. Tell us what it is that Anthony told you when he got back
24 to Illinois.

25 A. That he was at a party at Mr. Spacey's house, and that he

MACKRAP2

Hart - Direct

1 was kind of bored and away from everybody, because it seemed
2 like there were a lot of adults there, and that I guess later
3 in the evening, he was watching TV, and at some point,
4 Mr. Spacey came in and, you know, picked him up and put him on
5 the bed and laid on top of him, and he, you know, kind of
6 wriggled around, got free, and got out of there.

7 Q. Is there anything else you recall Anthony telling you?

8 A. Not specifically, no. That was a pretty momentous thing,
9 so that's really what I remember of it.

10 Q. When you say it was a pretty momentous thing, what do you
11 mean by that?

12 A. Well, you know, I hadn't known any of my friends or anyone
13 really that had had any sort --

14 MR. SCOLNICK: Objection, your Honor; relevance.

15 THE COURT: Sustained.

16 BY MR. SAGHIR:

17 Q. Are you still friends with Anthony?

18 A. Yes.

19 Q. Describe the nature of your friendship now.

20 A. I guess a step below Facebook friends. You know, we'll
21 text each other happy birthday on our birthdays. You know, if
22 he sees something that I post with my daughter, he might
23 comment on it, but that's kind of the extent of it. You know,
24 I haven't really actually seen him in person until this period
25 and since, like, 2015.

MACKRAP2

Hart - Direct

1 Q. When Anthony told you what Kevin Spacey did to him, what
2 did you think?

3 MR. SCOLNICK: Objection; relevance.

4 THE COURT: Sustained.

5 BY MR. SAGHIR:

6 Q. When Anthony told you what Kevin Spacey did to him, what
7 did you say?

8 A. I don't remember what I said specifically. I think I was,
9 you know, probably just fairly shocked that that had happened,
10 because it hadn't happened with any of my friends, anything
11 with an adult.

12 Q. Mr. Hart, do you know someone by the name of John
13 Barrowman?

14 A. Yes, I know who he is.

15 Q. Who is he?

16 A. He's an actor.

17 Q. How did you -- have you ever met him?

18 A. I've met him. He was also in *Oliver* when I was in *Oliver*
19 with Anthony.

20 Q. Were you friendly with Mr. Barrowman in high school?

21 A. No, not at all.

22 Q. Explain that.

23 A. I was a little kid. It just -- it wasn't my circle.

24 Q. Mr. Hart, when you and Anthony were in high school, when,
25 if ever, did Anthony tell you that he was attracted to John

MACKRAP2

Hart - Direct

1 Barrowman?

2 A. I don't remember him ever telling me that.

3 Q. When, if ever, did Anthony even talk to you about John
4 Barrowman?

5 A. I don't remember him ever talking about him.

6 Q. When, if ever, did he tell you that he had a crush on John
7 Barrowman?

8 A. He's never told me that.

9 Q. Mr. Hart, how did you get to New York from California?

10 A. I flew.

11 Q. Who paid for that flight?

12 A. Your firm did.

13 Q. And you're staying at the Hampton Inn, correct?

14 A. I am.

15 Q. Who is paying for the Hampton Inn?

16 A. Your firm is.

17 Q. When do you leave?

18 A. As soon as we finish here.

19 MR. SAGHIR: Thank you. No further questions at this
20 time.

21 THE COURT: Thank you.

22 Cross-examination, Mr. Scolnick?

23 MR. SCOLNICK: Yes, your Honor.

MACKRAP2

Hart - Cross

1 CROSS-EXAMINATION

2 BY MR. SCOLNICK:

3 Q. Good morning, Mr. Hart.

4 A. Hello.

5 Q. Mr. Hart, now, you've spoken with Mr. Rapp's counsel before
6 today, correct?

7 A. Yes.

8 Q. You've spoken with them multiple times, right?

9 A. Yes.

10 Q. And you were deposed in this case, correct?

11 A. That's correct.

12 Q. You've spoken with Mr. Rapp's counsel before you were
13 deposed, right?

14 A. That's correct.

15 Q. They asked you questions about what you recalled with your
16 interactions with Mr. Rapp in 1986, correct?

17 A. That's correct, yes.

18 Q. And you answered their questions, right?

19 A. Yes.

20 Q. You answered all of their questions, right?

21 A. Yes.

22 Q. Because you wanted to be helpful, right?

23 A. Yes.

24 Q. Now, I also called you, didn't I?

25 A. You did.

MACKRAP2

Hart - Cross

1 Q. I also tried to ask you some questions about what you
2 recalled, correct?

3 A. Correct.

4 Q. You did not answer all of my questions, right?

5 A. Also correct.

6 THE COURT: Sorry, I can't hear you.

7 THE WITNESS: Sorry. Also correct.

8 BY MR. SCOLNICK:

9 Q. And you did not answer my questions because Anthony was
10 your friend, and you wanted to support his lawsuit against
11 Kevin Spacey, right?

12 A. No, I wanted to support Anthony, not specifically a
13 lawsuit.

14 Q. Ah, Mr. Hart --

15 MR. SCOLNICK: Could we have tab F up, please?

16 Q. -- you were deposed on November 9th of last year, correct?

17 A. Correct.

18 Q. I asked you:

19 "Q. Why is it you didn't want to --

20 THE COURT: Page number.

21 MR. SCOLNICK: Yes, your Honor.

22 THE COURT: I don't know how to get this point across.

23 MR. SCOLNICK: Yes, your Honor. Page 16, lines 6
24 through 11.

25 THE COURT: Just read it.

MACKRAP2

Hart - Cross

1 "Q. Why is it you didn't want to answer my questions and you
2 did answer Mr. Saghir's questions?

3 "A. Because Anthony is my friend, and I trust his judgment.
4 If he's, you know, getting a lawyer and such, then I'm going to
5 be supportive of that."

6 Was that true?

7 A. Yes.

8 Q. Do you realize this case is about Mr. Rapp's claims of what
9 he alleges in 1986?

10 A. Yes, I do.

11 Q. And he was in New York then, right?

12 A. Yes.

13 Q. You were not in New York in 1986, right?

14 A. Correct.

15 Q. He claims he went to a party at an apartment of
16 Mr. Spacey's, right?

17 A. Yes.

18 Q. And you've never been to an apartment of Mr. Spacey's,
19 right?

20 A. I'm sorry?

21 Q. You've never been to an apartment belonging to Mr. Spacey,
22 right?

23 A. No.

24 Q. You have no firsthand knowledge of whether Mr. Rapp's
25 claims are true or false, right?

MACKRAP2

Hart - Cross

1 A. I do not.

2 Q. I want to talk to you about what Mr. Rapp told you when he
3 spoke with you in 1986, okay?

4 A. Okay.

5 Q. You said after Mr. Rapp came back from New York, he told
6 you about his trip, right?

7 A. Yes.

8 Q. You and Mr. Rapp would talk about sex a lot when you were
9 in junior high, right?

10 A. Sure.

11 Q. He told you he went to a party at Kevin Spacey's apartment?

12 A. Yes.

13 Q. Now, of course, at this point, you didn't know who Kevin
14 Spacey was, right?

15 A. Correct.

16 Q. He told you he went inside Kevin Spacey's bedroom, right?

17 A. I remember him saying that there was a bed there, so, I
18 mean, I assume, yes, bedroom.

19 THE COURT: Well, no, you're assuming that he told you
20 he went into a bedroom, yes?

21 THE WITNESS: Yes.

22 THE COURT: Or you remember him telling you he went
23 into a bedroom?

24 THE WITNESS: I am assuming that he told me that. I
25 don't necessarily remember him saying specifically he went into

MACKRAP2

Hart - Cross

1 the bedroom, but I know that he was lifted onto a bed, so,
2 therefore, my assumption was it was a bedroom.

3 THE COURT: Okay.

4 BY MR. SCOLNICK:

5 Q. Mr. Hart, on November 9th, at your deposition, page 39/5
6 through 8, the question was:

7 "Q. Go ahead.

8 "A. Okay. That he was in the bedroom, that Kevin Spacey
9 lifted him onto the bed and laid on top of him, he wriggled
10 free and left."

11 Was that true?

12 A. Yes.

13 Q. Turning to page 38, lines 2 through 4:

14 "Q. Did Mr. Rapp tell you where he was in Mr. Fowler's
15 apartment?

16 "A. He said he was in the bedroom."

17 Is that true? Yes or no, sir.

18 A. Again, I don't know that he specifically said bedroom. I
19 think that was just me interpreting and remembering it that
20 way. So, I don't know for certain that that's what he said.
21 That is how I took it.

22 Q. First of all, sir, have you corrected your transcript? Did
23 you have to make any corrections to your deposition transcript
24 between November and today?

25 A. I didn't. I also didn't know that I could do that.

MACKRAP2

Hart - Cross

1 Q. You also testified on November 9th, 2021, page 11, lines 2
2 through 16:

3 "Q. Okay. And what did you tell Mr. Saghir on the phone call?

4 "A. I told him that Anthony came back from doing the show, we
5 arranged within the first week or two to have him spend the
6 night, as we often did, and, you know, we were catching up
7 on -- you know, I hadn't seen him in a few months, catching up
8 on everything, and, you know, in the context of this, he told
9 me he had been at a party at Kevin Spacey's house and that he
10 was in the bedroom. And I believe that, you know, it was
11 toward the end of the night, and he said at, you know, one
12 point Kevin Spacey picked him up, laid on top of him on the
13 bed, and Anthony, you know, was uncomfortable, and he kind of
14 wriggled out and got out of there. That was really all there
15 was to it."

16 Was that true?

17 A. Yes.

18 Q. Okay.

19 Now, Mr. Hart, you were actually here in court
20 yesterday, weren't you?

21 A. Yes, I was in the conference room.

22 Q. Okay.

23 And you're aware that this case has been going on,
24 right, or this trial has been going on for several days now?

25 A. I'm not sure when it started, but, yes.

MACKRAP2

Hart - Cross

1 Q. And you spoke with -- between your deposition, did you
2 speak with Mr. Rapp's counsel between your deposition and
3 trial?

4 A. Yes.

5 Q. Did you speak with Mr. Rapp's counsel after opening
6 statements, which were last week, on Thursday?

7 A. Yes; I spoke with him on Monday.

8 Q. Have you made any public statements about this case, saying
9 that, you know what, now I got it wrong in my deposition, and I
10 know I said it was a bedroom three times under oath, but I must
11 have been mistaken? Have you said that to anybody?

12 A. I have not.

13 Q. Did you say to Mr. Rapp's counsel, you know what, I told
14 you it was a bedroom when we talked about it, I told you it was
15 a bedroom three times during my deposition under penalty of
16 perjury, but, you know what, that was a mistake, I may have
17 just imagined it? Did you say that to him?

18 A. I did not.

19 Q. And you're here trying to support Mr. Rapp's case, right?

20 A. I'm here trying to support Mr. Rapp.

21 Q. And his case, right?

22 A. I mean, if that's what he's here to do, yeah. I mean, I'm
23 here to support him. I'm here to tell what I remember.

24 Q. Do you know that Mr. Rapp testified, just today and
25 yesterday, that he told you there was a bedroom when he talked

MACKRAP2

Hart - Cross

1 to you?

2 A. Okay.

3 Q. Now, Mr. Rapp, he never told you he had been to Kevin
4 Spacey's apartment more than once, did he?

5 A. Not that I recall, no.

6 Q. He didn't tell you that he had been to Mr. Spacey's
7 apartment with John Barrowman either, did he?

8 A. Not that I recall, no.

9 Q. And you know who John Barrowman is, you testified about
10 that on direct examination, right?

11 A. Yes.

12 Q. He's an actor, pretty famous guy, right?

13 A. Yes.

14 Q. And you also knew who John Barrowman was in 1986, right?

15 A. Correct.

16 Q. So, by the time you're having this conversation with
17 Mr. Rapp in 1986, you knew darn well who Mr. Barrowman was,
18 right?

19 A. Yes.

20 Q. At that point, you had already been in a play with him,
21 right?

22 A. Yes.

23 Q. And you said that you didn't really know him because you
24 were a little kid and he was older, right?

25 A. Yes.

MACKRAP2

Hart - Cross

1 Q. He was a number of years older than you, right?

2 A. Correct.

3 Q. But even though he was a number of years older, you still
4 were in a play together, right?

5 A. Yes.

6 Q. And I suppose he played one of the lead roles, right?

7 A. He was the head of the workhouse, and I was one of the
8 orphans.

9 Q. And he was a talented guy, right?

10 A. Yes.

11 Q. He played a lot of leads in town in 1986 and earlier,
12 right?

13 A. I don't know. I didn't really follow him. That was
14 literally the only show I did.

15 Q. He was a popular good looking guy, right?

16 A. He's a good looking guy. Again, I wasn't in school with
17 him, so I don't know how popular he was.

18 Q. But you were in a play with him, right?

19 A. Yes.

20 Q. You were in a play with him because you wanted to be in a
21 play, right?

22 A. Yes.

23 Q. No one forced you, right?

24 A. Correct.

25 Q. And you were interested, at least at that time, in acting,

MACKRAP2

Hart - Cross

1 right?

2 A. Well, it was really that the -- they needed kids because it
3 was a high school production, and they needed orphans, and I
4 could sing, and it sounded like something fun to do.

5 Q. Right, you were interested in singing and dancing at that
6 time, right?

7 A. Singing, not so much dancing.

8 Q. Okay.

9 So, you did the play, right?

10 A. Yes.

11 Q. Now, you also knew in 1986 who Mr. Lemmon was, right, Jack
12 Lemmon?

13 A. Probably, yes. I don't know when I would have learned
14 about him necessarily.

15 Q. Mr. Hart, he was one of the biggest actors in the United
16 States in the 1980s, right?

17 A. Yeah. I was a 15-year-old kid that didn't pay a lot of
18 attention to, like, TV and movies.

19 Q. Even though you were doing plays and dancing and singing,
20 right?

21 A. I did a play.

22 Q. Okay.

23 So, Mr. Rapp did not tell you that he went to Jack
24 Lemmon's dressing room when he was in New York, did he?

25 A. No, not that I recall.

MACKRAP2

Hart - Cross

1 Q. He didn't tell you that he went to one of the biggest
2 actors in the world dressing room just weeks earlier, right?

3 A. Right.

4 Q. By 1986, can we agree that -- going back to Mr. Barrowman,
5 that he was already a grown man who had gone off to college?

6 A. Yes.

7 Q. Right.

8 Because you were in a play with him when you were
9 seventh or eighth grade, and he was already a senior at that
10 time, right?

11 A. Yes.

12 Q. Right.

13 So, Mr. Rapp never told you that he and John
14 Barrowman, the same person that you were in a play with not too
15 long before, had gone to see Kevin Spacey and Jack Lemmon in a
16 play, did he?

17 A. No, not that I recall.

18 Q. He didn't tell you that Mr. Barrowman and Mr. Spacey went
19 to dinner together, right?

20 A. No. I don't remember that at all.

21 Q. He didn't tell you the three of them went to The Limelight,
22 did he?

23 A. No.

24 Q. He didn't tell you that he saw Mr. Barrowman and Mr. Spacey
25 flirting together?

MACKRAP2

Hart - Cross

1 A. No, not that I recall.

2 Q. And he didn't tell you that he and Mr. Barrowman went to
3 Mr. Spacey's apartment, did he?

4 A. No, not that I recall.

5 Q. Left that detail out completely, didn't he?

6 Is that a yes?

7 A. Yes.

8 Q. In fact, Mr. Rapp left out everything about John Barrowman
9 coming to New York, didn't he?

10 A. Yes.

11 Q. He didn't tell you one word about Mr. Barrowman, this
12 person that you both knew, coming to New York City just weeks
13 earlier, right?

14 A. Well, we didn't both know him. I knew who he was. I don't
15 know him -- he wouldn't have been somebody that we would have
16 discussed because it's not in my circle. Like, I wouldn't have
17 cared.

18 Q. Mr. Hart, can we agree you knew who he was?

19 A. Sure.

20 Q. And at that time, you did act in a play with him, right?

21 A. Yes.

22 Q. Okay. So he didn't tell you that just weeks earlier, this
23 person you both acted in a play with had come out to visit him
24 for a week and stayed with him in New York, he mentioned not a
25 word of that, did he?

MACKRAP2

Hart - Cross

1 A. No, not that I recall.

2 Q. Mr. Rapp did tell you he was in *Precious Sons*, though,
3 right?

4 A. Yes.

5 Q. He told you the play was fun, right?

6 A. Yes.

7 Q. But he didn't tell you that Ed Harris' character had picked
8 him up in the air in the play, right?

9 A. No, I don't remember anything about that.

10 Q. He didn't tell you that Ed Harris' character lied on top of
11 him in the play twice, did he?

12 A. No, I don't remember any of that.

13 Q. He didn't tell you that Ed Harris' character made a sexual
14 advance on him in the play, did he?

15 A. Not that I recall.

16 Q. He didn't tell you that eight nights a week, Mr. Harris'
17 character pretended, in character, to make a sexual advance on
18 him, did he?

19 A. No.

20 Q. Instead, he told you that Kevin Spacey lied on top of him,
21 right?

22 A. Yes, he did.

23 Q. Now, Mr. Rapp wasn't crying when he told you his Kevin
24 Spacey story, was he?

25 A. No, not that I recall.

MACKRAP2

Hart - Cross

1 Q. Mr. Rapp wasn't shaking when he told you this Kevin Spacey
2 story, was he?

3 A. Not that I recall, no.

4 Q. And you've talked about this two or three times with
5 Mr. Rapp over the years?

6 A. Yes.

7 Q. You spoke extensively about your relationship at different
8 ages with Mr. Rapp, just on direct examination, right?

9 A. Yes, sir.

10 Q. You spoke about how your relationship has evolved over
11 time, right?

12 A. Yes.

13 Q. And you also spoke about your relationship in middle
14 school, right?

15 A. Correct.

16 Q. That would be before this trip to New York in 1986, right?

17 A. Correct.

18 Q. You even talked about some of the things you did together,
19 right?

20 A. Yes.

21 MR. SCOLNICK: Your Honor, without getting into
22 specifics, I renew the 412 motions.

23 THE COURT: You renew?

24 MR. SCOLNICK: The 412 motions.

25 THE COURT: I'm having trouble understanding the last

MACKRAP2

Hart - Cross

1 words.

2 MR. SCOLNICK: I renew my motion under 412.

3 MR. STEIGMAN: Which has to be under seal to start
4 with.

5 THE COURT: All right.

6 Members of the jury, a longer lunch hour than usual
7 today. 2:00 o'clock, please. And we have to clear the
8 courtroom, so all spectators must leave, and the witness,
9 please. See you at 2:00 o'clock.

10 THE WITNESS: Okay. Thank you.

11 (Witness temporarily excused)

12 MR. SAGHIR: Your Honor, are we going to resume with
13 the witness before lunch?

14 MR. STEIGMAN: No; he said lunch.

15 MR. SAGHIR: I'm sorry.

16 (Jury not present)

17 THE COURT: You may be seated.

18 Who are all the people in the back of the courtroom?

19 MR. STEIGMAN: The front row is Ken and people from my
20 office.

21 THE COURT: Well, I don't know Ken's last name, but,
22 Ken, out of the courtroom, please.

23 Now, people from your office, what are they doing
24 here? Are they participating in the prosecution of the case,
25 or are they spectators?

MACKRAP2

Hart - Cross

1 MR. STEIGMAN: Well, they're assisting.

2 THE COURT: Is there any objection to their remaining,
3 Ms. Keller?

4 MS. KELLER: None on our part, your Honor.

5 THE COURT: Okay.

6 (Pages 562-575 SEALED by order of the Court)

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MACsRAP3

1 AFTERNOON SESSION

2 1:55 p.m.

3 (Jury not present)

4 MR. STEIGMAN: Your Honor, we have done a little more
5 research.

6 THE COURT: This is on the same subject as before?

7 MR. STEIGMAN: Yes.

8 THE COURT: Well, we still have an issue with people
9 in the courtroom. Why don't you want it up?

10 Have you given it to the other side?

11 MR. STEIGMAN: No. It's really the notes of the
12 advisory committee to Rule 412, right, so I just want to
13 call --

14 May I?

15 THE COURT: It has to do whether offer of substantive
16 evidence or impeachment?

17 MR. STEIGMAN: Right.

18 This is what we both found over the lunch break that
19 supports the position that --

20 THE COURT: Say no more.

21 The ruling on the one matter we discussed before lunch
22 in the closed session is simply not with this witness.

23 MR. STEIGMAN: Is what.

24 THE COURT: Not with this witness, foreclosed for this
25 witness.

MACsRAP3

1 MR. STEIGMAN: OK.

2 THE COURT: The standard in 412(d)(2) is not satisfied
3 as to this witness.

4 OK. Let's go.

5 MR. STEIGMAN: One more thing. Defendant's expert
6 Dr. Bardey is in the courtroom now. Dr. Rocchio will be
7 testifying next. I ask that he be excluded during
8 Dr. Rocchio's testimony.

9 THE COURT: Any reason why not?

10 MR. SCOLNICK: Yes, your Honor. Dr. Bardey is a
11 rebuttal witness to Dr. Rocchio. He should be here to listen
12 to the testimony he's going to rebut. He's an expert, not a
13 lay witness, your Honor.

14 THE COURT: Yes, I understand that. Does the rule
15 make that distinction?

16 It's Rule 612, I believe.

17 MR. SCOLNICK: 615, your Honor.

18 THE COURT: Thank you. It does not.

19 Dr. Bardey will have to wait outside, or if he's not
20 going to testify today, he's free to go.

21 MR. SCOLNICK: Yes, your Honor.

22 MR. SAGHIR: Your Honor, would you like Mr. Hart to
23 resume the stand at this time?

24 THE COURT: I'm sorry, I couldn't hear you.

25 MR. SAGHIR: Would you like Mr. Hart to resume the

MACsRAP3

1 stand?

2 THE COURT: One minute.

3 Mr. Scolnick, if you have any authority to the
4 contrary on that, I'm happy to look at it.

5 MR. SCOLNICK: Nothing further than we've already
6 cited in our letters, your Honor.

7 THE COURT: No, no, no. I'm talking about
8 Dr. Bardey's presence.

9 MR. SCOLNICK: I'm sorry. I don't, your Honor.

10 THE COURT: OK. Thank you.

11 Yes, let's get Mr. Hart back.

12 THE DEPUTY CLERK: Shall I get the jury, Judge?

13 THE COURT: Yes.

14 THE DEPUTY CLERK: Thank you.

15 (Continued on next page)

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MACsRAP3

Hart - Redirect

1 (Jury present)

2 THE COURT: Mr. Hart, you're still under oath.

3 THE WITNESS: Yes, sir.

4 THE COURT: OK. Now, we're still on cross,
5 Mr. Scolnick, yes?

6 You may continue.

7 MR. SCOLNICK: Yes, your Honor. I have nothing
8 further.

9 THE COURT: OK. Any redirect?

10 MR. SAGHIR: Briefly.

11 REDIRECT EXAMINATION

12 BY MR. SAGHIR:

13 Q. Mr. Hart, during cross-examination you were asked about
14 whether or not you were here to support Anthony or his lawsuit
15 and a portion of your deposition was read to you.

16 Do you recall that?

17 A. Yes, I do.

18 Q. I'm now going to read the entire portion of the deposition.
19 This is coming from page 16 of the deposition of November 9,
20 2021, line 15.

21 THE COURT: Line 15 to where?

22 MR. SAGHIR: Line 15 to 16.

23 MR. SCOLNICK: Counsel, can you please put it on the
24 screen so he can see it?

25 THE COURT: Pardon me?

MACsRAP3

Hart - Redirect

1 MR. SCOLNICK: I was just asking if counsel can put it
2 on the screen so we can see it.

3 THE COURT: Don't you have the deposition here?

4 MR. SCOLNICK: I'm pulling it up now, your Honor.

5 THE COURT: It's only two lines.

6 MR. SAGHIR: It's just ...

7 THE COURT: I'm sorry. Another quarter is heard from.

8 MR. SAGHIR: I apologize. I'm sorry, your Honor.

9 Should I start?

10 THE COURT: Well, I'm going to give Mr. Scolnick a
11 chance to get it up on his computer.

12 MR. SCOLNICK: I have it, your Honor. Thank you.

13 THE COURT: OK. Page 16, lines 15 and 16.

14 BY MR. SAGHIR:

15 "Q. Why is it you didn't want to answer my questions and you
16 did answer Mr. Saghir's questions?

17 "A. Because Anthony is my friend and I trust his judgment. If
18 he, you know, gets a lawyer and such, then I'm going to be
19 supportive of that.

20 "Q. You want to be supportive of this case, correct?

21 "A. No, I want to be supportive of him."

22 Q. Mr. Hart, explain what you meant by that.

23 A. Um, he's my friend. We went through a lot together in that
24 time, and he trusted me with something that was, you know,
25 pretty earth-shattering to us at the time. And, you know, I

MACsRAP3

Hart - Redirect

1 just wanted to be supportive of him. He asked -- he asked me
2 to, you know, speak my truth, so I did.

3 MR. SAGHIR: I have no further questions. Thank you.

4 THE COURT: Thank you.

5 Mr. Scolnick, anything else?

6 MR. SCOLNICK: No, your Honor. Thank you.

7 THE COURT: All right. Thank you, Mr. Hart. You're
8 excused.

9 THE WITNESS: Thank you, your Honor.

10 (Witness excused)

11 MR. STEIGMAN: Before I call the next witness, I think
12 we need to speak with the court again.

13 THE COURT: It affects the cross, right?

14 MR. STEIGMAN: And the direct, for sure. For sure.

15 THE COURT: OK. If it affects the direct, members of
16 the jury, we have to do something without you being present and
17 we have to clear the back of the courtroom again. Turn off the
18 feed to the overflow room.

19 (Pages 582-601 SEALED)

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MACsRAP3

Hart - Redirect

1 (In open court; jury not present)

2 THE DEPUTY CLERK: Judge, are we ready to go?

3 THE COURT: I'm ready to go.

4 (Jury present)

5 THE COURT: Members of the jury, sorry about the
6 interruption. There are one or two things relating to this
7 case that have to be done in a closed courtroom, and that was
8 one of them.

9 Hopefully the last. Hopefully.

10 Let's go.

11 MR. STEIGMAN: Your Honor, plaintiff calls Dr. Lisa
12 Rocchio.

13 THE COURT: Whoever on the jury asked if you could
14 stand and stretch your back, go for it.

15 THE DEPUTY CLERK: Please remain standing and raise
16 your right hand.

17 LISA ROCCHIO,

18 called as a witness by the Plaintiff,

19 having been duly sworn, testified as follows:

20 THE DEPUTY CLERK: Please state your name and spell
21 your last name for the record.

22 THE WITNESS: Lisa Rocchio, R-o-c-c-h-i-o.

23 THE COURT: You may proceed, Mr. Steigman.

24 MR. STEIGMAN: Thank you, your Honor.

25 DIRECT EXAMINATION

MACsRAP3

Rocchio - Direct

1 BY MR. STEIGMAN:

2 Q. Good afternoon, Dr. Rocchio.

3 A. Hello.

4 Q. What is your profession?

5 A. I'm a clinical and forensic psychologist.

6 Q. Can you tell us what clinical psychology is, please?

7 A. Clinical psychology is the study of human behavior,
8 thoughts, feelings, both abnormal and normal. We study and
9 we're trained to assess psychopathology as well as human
10 strength and resilience.

11 Q. What is forensic psychology?

12 A. Forensic psychology is the application of the field of
13 psychology to some particular legal issue. So it's psychology
14 at the intersection of psychology and law.

15 Q. Can you tell the jury and court, please, your educational
16 background?

17 A. Sure. I attended NYU University for my bachelor's degree
18 and then I earned a master's degree and a doctoral degree in
19 psychology at the University of Rhode Island. As part of that,
20 I conducted a pre-doctoral fellowship at Yale University School
21 of Medicine, and then following the earning of my degree, I did
22 a one-year post-doctoral fellowship in a private practice
23 setting as well as in a psychiatric hospital.

24 Q. OK. Let's back up a little bit.

25 Can you give us an overview of the coursework and

MACsRAP3

Rocchio - Direct

1 training that you received in connection with your master's and
2 Ph.D.?

3 A. So it was a five-year program taking courses in general
4 areas of psychology, abnormal psychology, human development,
5 physiology, also specialty areas, perception, cognition. I
6 took classes on forensic psychology, violence in the lives of
7 women, psychology of poverty. Three -- three years full-time
8 of classes during which time I was also taking supervised
9 treatment and assessment of patients. So learning how to
10 conduct individual therapy, marital therapy, family therapy.
11 And I did that for three years while I was also preparing both
12 a master's thesis, and then ultimately a dissertation, because
13 my program was a scientist and practitioner one.

14 Do you want me to continue?

15 Q. If you would, tell us, were there any topics during that
16 period of time that you focused on?

17 A. So I focused on eating disorders, I also focused on
18 violence and trauma, as well as forensic psychology.

19 Q. When you talk about trauma, can you explain what you're
20 talking about, please?

21 A. So trauma really occurs on the continuum. So it's
22 essentially traumatic stress is any significant event that
23 exceeds a person's capacity to cope with that event, and it can
24 occur on a continuum at the more severe end. We consider
25 trauma to be something where you either experience or witness

MACsRAP3

Rocchio - Direct

1 an actual or threatened death, severe bodily injury, or sexual
2 violence, for example.

3 Q. OK. What is -- are you familiar with the phrase
4 interpersonal violence?

5 A. Yes.

6 Q. Can you describe that for us, please?

7 A. So interpersonal violence is an umbrella term that refers
8 to any sort of violence and trauma that one perpetrates upon
9 another. So it's my area of expertise that would encompass
10 rape, sexual assault, childhood sexual abuse, sexual
11 harassment, and things of that nature.

12 Q. You mentioned childhood sexual abuse?

13 A. Yes.

14 Q. What do you mean by that?

15 A. Childhood sexual abuse is -- it's important for that to
16 be -- to understand that it's not simply a single event, it
17 occurs in a context. So when we're talking about childhood
18 sexual abuse, we have to understand the dynamics. But
19 essentially, it's when an individual, who either is an adult,
20 does something of a sexual nature either to or with a child.
21 And it can be both contact, so it can involve sexualized
22 contact, or it can be noncontact, for example, showing a child
23 pornography, for example, or having inappropriate
24 conversations. But a sexual interaction between an adult and a
25 child.

MACsRAP3

Rocchio - Direct

1 Q. I think you mentioned that in connection with your master's
2 and Ph.D., you did clinical work as well?

3 A. Yes.

4 Q. All right. How many patients, and can you just give us an
5 overview about that?

6 A. Sure. So I had to complete about 400 hours of clinical
7 work. Then I did about 1,000 hours, 1,500 to 2,000, before I
8 even got my Ph.D., and afterward another 2,000. So in the
9 course of my training, it was between three and 4,000 hours.
10 Since that time, I've been seeing patients as well.

11 Q. I'll ask you about that. The three to 4,000 hours of
12 predoctoral, can you give us an overview of the clinical
13 experience you had?

14 A. So when I was in graduate school, we ran a psychotherapy
15 clinic. So I saw patients in an outpatient psychotherapy
16 clinic. I also worked at Brown University Psychological
17 Services providing treatment to Brown students, I worked at the
18 University of Rhode Island Psychological Services providing
19 services to URI students, and then for the year that I was at
20 Yale, I worked for six months in an adult day hospital program
21 for adults with significant psychiatric illness. And for the
22 other six months, I worked at what was then called Yale
23 Psychiatric Institute, which was a psychiatric hospital and day
24 program for adolescents.

25 Q. What is a predoctoral fellowship?

MACsRAP3

Rocchio - Direct

1 A. Within the field of psychology, you have to apply in order
2 to earn your degree when you're in a scientific -- science
3 practitioner model accredited university program, as I was.
4 One of the requirements of the degree is a full year of
5 full-time supervised clinical experience and you have to do
6 that at an accredited training site that has been, you know,
7 accredited to meet various criteria.

8 Q. OK. You described that you did that, correct?

9 A. Yes.

10 Q. After you got your Ph.D., what did you do next
11 professionally?

12 A. So to meet requirements for licensure I had to, again, do
13 another full year of supervised clinical work. And during that
14 year, I worked at a psychiatric hospital at Butler Hospital in
15 Rhode Island working in a program called that was a dialectical
16 behavior therapy program. Dialectical behavior therapy is a
17 form of therapy that was initially developed to work with
18 chronically suicidal and self-injurious women. It was an
19 all-women patient program, and the bulk of those women have
20 experienced some form of trauma during their childhood.

21 In addition, I worked in the private practice
22 providing that form of treatment on an outpatient level with
23 supervision. And then I also taught psychology classes during
24 that year at the Providence College.

25 Q. During that period of time that you've described for us,

MACsRAP3

Rocchio - Direct

1 did your focus include issues or patients who were victims of
2 childhood sexual abuse?

3 A. Yes.

4 Q. Can you describe that for us, please?

5 A. So I was working at that time with both adolescents and
6 adults and had developed an interest and expertise in the area
7 of traumatic stress and interpersonal violence. Also, because
8 I received training in this very specialized form of treatment,
9 oftentimes people would seek me out because I had that
10 training, and it can be quite helpful for people who have
11 really difficult lives or who have experienced trauma. And
12 then, you know, over time I began to see more and more of those
13 patients.

14 Q. You completed your post-doctoral fellowship?

15 A. I did.

16 Q. What did you do next?

17 A. I got licensed in the state of Rhode Island and I opened an
18 independent practice) where I provided psychotherapy to
19 adolescents and adults and began hiring staff to work in that
20 practice.

21 Q. OK. Have you continued in that practice?

22 A. I've continued in that practice, and then also in addition
23 to that practice, as part of that practice, I also engaged in
24 forensic work.

25 Q. OK. We'll talk about the forensic work.

MACsRAP3

Rocchio - Direct

1 With respect to your clinical practice, you said
2 you're licensed in Rhode Island?

3 A. Among other states, yes.

4 Q. Tell us the states you're licensed in and what those
5 licenses are, please.

6 A. So I'm licensed to practice psychology in Rhode Island,
7 Massachusetts, New York, Connecticut, and Maine. And those
8 licenses allow me to both see patients, if I wanted to, in
9 those states, to conduct teletherapy with a patient residing in
10 those states while I'm residing in Rhode Island, and allow me
11 to travel to those states to perform forensic psychological
12 evaluations, to practice psychology.

13 Q. All right. Forgive me for asking, but how long have you
14 been, since completing your doctorate and getting licensed,
15 your post-doctoral studies, how long have you been engaged in a
16 private clinical practice?

17 A. My first licensure I earned at the very end of 1997, so
18 25 years.

19 Q. OK.

20 A. 26.

21 Q. OK. Do you have a focus in your clinical practice?

22 A. I do.

23 Q. Tell us about that.

24 A. In my clinical practice, I focus primarily on working with
25 victims of traumatic stress. So that would be a broad-based,

MACsRAP3

Rocchio - Direct

any sort of trauma stress. So I work with first responders, I work with police officers, I work with firefighters, I work with people who been involved in motor vehicle accidents. And I also work with people who have experienced traumatic grief, so they've lost a loved one, perhaps a child under traumatic circumstances. And then also my expertise in rape, sexual assault, adult victims of childhood sexual abuse, intimate partner violence, and sexual harassment.

So those folks comprise the bulk of my clinical practice, although I also treat many patients who are coming in for difficulties in life adjustment or perhaps they are having relationship trouble or depression, anxiety, that sort of thing.

Q. In your field, do you have any teaching responsibilities?

A. I do. Well, certainly as the owner of a practice where I employ other therapists, I have a responsibility to continue to train them and some of them, you know, didn't come to me with expertise in the area of trauma. So I provide training and supervision to them.

But I also, along the clinical faculty at the Warren Alpert School of Medicine and in my role there, I provide supervision for the psychiatry fellows who are wanting to practice psychotherapy. So I supervise the psychotherapy portion and also give invited lectures and seminars regarding the treatment of trauma.

MACsRAP3

Rocchio - Direct

1 Q. Are you involved with any professional organizations?

2 A. I am.

3 Q. Tell us about that, if you would.

4 A. So I've been very heavily involved with the Rhode Island
5 Psychological Association, I have served on their ethics
6 committee for a number of years, I have served as a former
7 president of that organization. I'm a fellow of the American
8 Psychological Association and a member of some international
9 traumatic stress organizations, as well as the Anxiety and
10 Depression Association of Rhode Island. I'm quite, quite
11 active, and in particular, I'm a founding member of the
12 Division of Trauma Psychology, which is a subdivision at the
13 American Psychological Association. And I sit on the ethics
14 committee as part of the entire American Psychological
15 Association. I'm part of that ethics committee.

16 Q. Have you published in your field?

17 A. I have.

18 Q. Can you describe that for us, please?

19 A. So as a clinician, one of the things I like to do is public
20 service. So a lot of my publications have been kind of public
21 service announcements for other professionals. But I also
22 recently was the special editor of a journal, the journal is
23 called Personal Injury and the Law, and that special section of
24 the journal was a series of articles that looked specifically
25 at issues pertaining to the assessment of complex trauma in

MACsRAP3

Rocchio - Direct

1 forensic settings.

2 And as part of that, I wrote the -- co-authored the
3 introduction and edited all the other pieces and then also
4 wrote my own piece, which was on ethical and professional
5 considerations in the assessment of -- in the forensic
6 assessment of complex trauma and childhood sexual abuse.

7 Q. All right. You've mentioned forensic a few times and I
8 think you defined that for us earlier.

9 Can you describe your practice as a forensic
10 psychologist, what that is and what you do?

11 A. So there are basically three separate things that I can,
12 and do, do as a forensic psychologist. The first would be to
13 perform forensic evaluation. So an attorney will contact me
14 and they may have a particular question that they want the
15 answer to. So what was someone's mental state at the time that
16 they committed a crime or what are some of the factors in this
17 person's life that might have contributed to, you know, their
18 behavior that the court may wish to know at sentencing. Or has
19 this person suffered any harm as a result of some alleged
20 incident or known incident.

21 So I conduct an extensive evaluation, and then rarely
22 end up getting called to testify. A lot of the cases end up
23 settling outside of court. I'll also testify when needed in
24 those cases.

25 Sometimes I come in, and without having done an

MACsRAP3

Rocchio - Direct

1 evaluation, and just provide the court with relevant
2 information as a subject matter expert. So I'll provide
3 answers to questions and provide information, educational
4 information about the state of the scientific literature in the
5 field of traumatic stress and childhood sexual abuse or rape
6 sexual assault. I might do that for prosecutors or I might do
7 that in defense cases.

8 And then the other way is not as a testifying expert,
9 but as a consultant to attorneys. So if an attorney has some
10 psychological issue and they need expert help understanding the
11 data or understanding someone else's evaluation, I might work
12 as a consultant in that way.

13 Q. How many forensic evaluations have you done in your career?

14 A. If I had to estimate, I would say around 100.

15 Q. I think you mentioned those are in both criminal and civil
16 cases?

17 A. Criminal and civil, yes.

18 Q. You've testified as a witness for the U.S. government at
19 times, correct?

20 A. I have.

21 MR. STEIGMAN: Your Honor, I offer Dr. Rocchio --

22 THE COURT: I'm sorry. That's not my practice. Not
23 necessary.

24 MR. STEIGMAN: Won't do it.

25 Q. Doctor, at some point, did my office get in touch with you

MACsRAP3

Rocchio - Direct

1 to conduct a forensic psychological examination of Anthony
2 Rapp?

3 A. Yes.

4 Q. Can you give us an overview -- that was back in the
5 beginning of 2021?

6 A. Yes.

7 Q. So can you give us an overview of how you undertook to
8 perform this forensic exam?

9 A. Yes. So it's really important to understand that when I'm
10 working in a forensic capacity, it's a completely separate and
11 distinct role from when I'm working in a clinical setting. So
12 in a clinical setting, I'm functioning as an advocate. I'm
13 taking, often, what my patients say at face value and I'm
14 providing treatment in accordance with their goals.

15 In a forensic capacity, I'm working as an independent
16 evaluator and my job is much more investigatory. The person
17 I'm evaluating is not my client. The attorney is my client.
18 So I go in to answer a very specific question. But in order to
19 do so, I take on kind of that investigatory role.

20 So I will ask to review all of the external documents
21 in the case. So in a criminal case, I might be looking at
22 crime scene reports and crime scene photos or autopsy reports.
23 I might look at medical records, educational records,
24 deposition testimony, so I can see what others have said.

25 Then I spend usually at least about eight to ten,

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Rocchio - Direct

1 eight to 12 hours one-on-one with a patient where I perform
2 with the individual -- sorry -- where I conduct both
3 psychological testing and extensive professional psychological
4 clinical interviewing to understand this person and to help me
5 arrive at an opinion.

6 Thirdly, I conduct collateral interviews. So often
7 there are people in an individual's life, whether that's a
8 parent or therapist or a partner, who can provide me with
9 information about how this person is functioning in the world,
10 how some event might have impacted them, how their relationship
11 is. If it's someone who knew the person, say, before as well
12 as after the alleged event, I might be able to get a chronology
13 from them.

14 But the point here is that I go in and I look at all
15 of -- all of that information, and then I integrate it and form
16 an opinion. I share the opinion with the attorney. If the
17 attorney chooses, they may say, OK, thank you for your opinion,
18 good-bye. Or they may say, could you please prepare a report
19 and be prepared to testify.

20 So my data is objective. I don't always at all find
21 necessarily the data that the attorneys might be arguing, but
22 at least the attorneys know what's going on with their case
23 from a psychological perspective.

24 Q. Sorry, Doctor. So in connection with our retaining you as
25 a forensic psychologist, we'll go through the specifics of it,

MACsRAP3

Rocchio - Direct

1 but you did that evaluation and you offered an opinion in a
2 report, is that correct?

3 A. Yes.

4 Q. And you also were deposed by defense counsel in the case,
5 correct?

6 A. Yes.

7 Q. Now, the purpose, the overall purpose -- this is a
8 preliminary matter -- was to determine what, if any,
9 psychological damage Anthony Rapp sustained as a result of the
10 incident with Mr. Spacey, correct?

11 A. Yes.

12 MR. SCOLNICK: Objection, your Honor.

13 THE COURT: Excuse me?

14 MR. SCOLNICK: Objection, your Honor. Motion in
15 limine number two.

16 I'm sorry, number three, your Honor.

17 (Pause)

18 THE COURT: Question and answer is stricken.

19 Rephrase your question.

20 MR. STEIGMAN: Let me do it this way, your Honor.

21 BY MR. STEIGMAN:

22 Q. You came to understand that Mr. Rapp has made certain
23 allegations about conduct that occurred in Mr. Spacey's
24 apartment in New York City in 1986 when he was 14 and
25 Mr. Spacey was 26, right?

MACsRAP3

Rocchio - Direct

1 A. Yes.

2 Q. You understand that Mr. Spacey has completely denied those
3 allegations, right?

4 A. I do.

5 Q. OK. When I referred to the incident with Mr. Rapp and
6 Mr. Spacey, can we agree we're talking about what Anthony Rapp
7 alleges, nothing more, nothing less, OK?

8 A. OK.

9 Q. Was your role to determine what, if any, psychological
10 damage Anthony Rapp sustained as a result of the incident with
11 Mr. Spacey?

12 MR. SCOLNICK: Same objection, your Honor.

13 THE COURT: Look, if the incident occurred. The
14 question is thus modified.

15 MR. STEIGMAN: Can we read that into --

16 THE COURT: I know you tried to work around it, but
17 it's going to be a repetition and a repetition of an assumption
18 that I think has to be clearly an assumption.

19 MR. STEIGMAN: Do you want me to say it every time?

20 THE COURT: Not passionately. I think that's the way
21 we're going to have to do it.

22 MR. STEIGMAN: OK.

23 THE COURT: I think I can manage.

24 MR. STEIGMAN: I'm going to try to remember.

25 BY MR. STEIGMAN:

MACsRAP3

Rocchio - Direct

1 Q. You're not here to offer testimony about anybody's
2 credibility, right?

3 A. No, I'm not.

4 Q. OK. Your role was to determine if Mr. Rapp has any
5 psychological damage and see if you could form an opinion as to
6 the cause or causes, is that fair?

7 A. Yes. Causes or partial causes, yes.

8 (Continued on next page)

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MACKRAP4

Rocchio - Direct

1 BY MR. STEIGMAN:

2 Q. Okay. Are you paid for your time as a forensic
3 psychologist?

4 A. Yes.

5 Q. How much do you charge? What's your rate?

6 A. \$450 an hour.

7 Q. Approximately how many hours have you put into this case?

8 A. Somewhere over 50 thus far, and probably less than 75.

9 Q. So that's a lot of hours. Can you give us an idea of what
10 you've been doing in those hours, to form your opinion in this
11 case?

12 A. Sure.

13 I would say probably 40 of those hours were spent on
14 the evaluation itself. So, reading any of the preliminary
15 materials that I had access to prior to my meeting with
16 Mr. Rapp, reviewing records, and I had the opportunity to
17 review Mr. Rapp's deposition testimony, as well as some of the
18 court filings, so I could better understand what he was
19 alleging. And then I spent about, as I said, nine and a half
20 hours directly with Mr. Rapp. I spent several other hours
21 conducting collateral interviews. And then I spent probably a
22 good -- the reports that I write, pulling all of that
23 information together, probably another 20 to 30 hours on the
24 report alone.

25 Then because my evaluation was done in 2021, since

MACKRAP4

Rocchio - Direct

1 that time, there have been a number of lengthy depositions that
2 have been taken in this case. So, I have spent considerable
3 time reading all of those depositions.

4 And then, obviously, traveling here, preparing to
5 testify today, reviewing my records, and then I was also
6 deposed. So, I spent a day, a full day, answering questions
7 from Mr. Spacey's attorney.

8 Q. Okay.

9 Are there certain objective tests that you
10 administered to Anthony as part of this evaluation?

11 A. Yes.

12 Q. I want to go through those. There are a number of
13 different tests that you administered; is that correct?

14 A. A number of different tests, as well as structured clinical
15 interviews and screening measures.

16 Q. What is a structured clinical interview?

17 A. So, a structured clinical interview is basically a test
18 format, and it's a clinical interview that's been designed by
19 the test takers to answer a specific question. In this case,
20 it's something called the clinical interview for posttraumatic
21 stress. And you have to ask questions on that instrument
22 precisely as they're written, and then there's a very specific
23 coding scheme that takes into account both the intensity and
24 the frequency of the reported symptom, and then it allows me to
25 evaluate in an objective manner whether or not that symptom is

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Rocchio - Direct

1 related to a particular, what's called, Criterion A event. So
2 when you're assessing using that measure for PTSD in general,
3 it's not, oh, a whole bunch of trauma can cause PTSD. The
4 assessment is done with a specific incident, and then you look
5 to see whether or not there were symptoms related to that
6 incident.

7 So that was one of the measures. That's a structured
8 clinical interview. It's the most widely used assessment tool
9 for PTSD. It's used in the Veterans Administration and for
10 veterans disability. It's a highly respected and
11 well-researched instrument.

12 Q. What's a Criterion A event?

13 A. So, one of the things a psychologist that we use is
14 something called the DSM-V, which is a manual that's actually
15 produced by the American Psychiatric Association, and it lists
16 different diagnoses with their criteria.

17 So, for posttraumatic stress disorder, in order to
18 qualify for the diagnosis, you have to experienced what the DSM
19 refers to as a Criterion A event, which is defined as either
20 experiencing oneself or witnessing either an actual or
21 threatened death, serious bodily injury, or sexual violence.
22 There are other disorders for traumatic stressors that don't
23 necessarily need that criteria, but for PTSD, you have to have
24 that particular event, and then a very specific set of symptoms
25 that relate to it. So that's Criterion A for PTSD.

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1 Q. Okay. Among the tests that you administered, was something
2 called the Folstein Mini-Mental Status Exam II?

3 A. Yes.

4 Q. Tell us what that is, please.

5 A. So, the Folstein is just a very common mini-mental status
6 exam. You may have even had it at the doctor's office
7 yourself. It's just a very kind of gross general screen to
8 rule out significant cognitive impairment. So I want to make
9 sure that the person I'm evaluating is cognitively able to
10 perform the evaluation.

11 Q. What were the results of the Folstein Mini-Mental Status
12 Exam II for Anthony Rapp?

13 A. Perfect score.

14 Q. What is the Beck Depression Inventory?

15 A. So, the Beck Depression Inventory is one of those
16 self-report screening tools that I administer. And it asks a
17 number of questions about various severity of experiences of
18 depression, but only within the last two weeks. So, it's a
19 real snapshot of how this person has been feeling in the past
20 two weeks, and it's self-reported; it's very evident, you know,
21 what the symptoms are, you know, have you felt sad, have you
22 felt low energy, have you been down, you know, those kinds of
23 things.

24 Q. There's also something called the Beck Anxiety Inventory?

25 A. The Beck Anxiety is a paired instrument, and it assesses

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1 for things like worry and physical tension, and just general
2 kinds of anxiety symptoms, yes.

3 Q. You gave Anthony both of those tests, right?

4 A. I did.

5 Q. What's the Mood Disorders Questionnaire?

6 A. The Mood Disorders Questionnaire is, again, another
7 checklist or questionnaire that I administered just to assess
8 to make sure that there were -- there was no evidence or
9 suggestion of more severe, serious preexisting bipolar
10 disorder. And so, when you're -- you do the screen, and if
11 somebody tests positive on that screen, it would say to me,
12 okay, you know, red flag, you need to go and further assess for
13 bipolar disorder.

14 Q. Any evidence of bipolar disorder?

15 A. No, none.

16 Q. What's the Personality Assessment Inventory?

17 A. The Personality Assessment Inventory is one of those
18 objective tests that we talked about earlier. It's a 344-item
19 test, and you answer each question on a scale of, you know, a
20 four-point scale as to how true particular series of statements
21 are for you. So, it's not linked to any particular point in
22 time; it gives a sense of what is this person reporting on this
23 test about themselves.

24 And then it has what's called embedded validity
25 measures. So, there are ways that the questions are worded,

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1 they may ask the same question different ways, they may ask
2 kind of improbable questions that somebody who was trying to
3 fake mental illness might endorse, they ask specific questions
4 so that you can tell how is this person approaching the test –
5 are they exaggerating, tending to exaggerate their responses,
6 are they tending to minimize their responses, are they
7 defensive? And then it also has a number of clinical scales
8 and subscales that give you a sense of how is this person
9 functioning from a symptomatic perspective, what are some
10 potential diagnoses you might want or need to consider, it
11 gives you a sense of how this person is interpersonally – are
12 they warm, are they dominant, are they egotistical – so it
13 gives you an overall sense of a person and some suggested
14 hypotheses for further evaluation.

15 Q. Doctor, can you just explain to us how a validity scale
16 works, how a test itself could reveal whether or not someone
17 was exaggerating or minimizing his symptoms?

18 A. So, validity scales, in general, are -- as I said, they're
19 embedded items, they're items that you wouldn't necessarily
20 know, you know, what it is they're getting at. And what they
21 do is they norm the item pool against other normative groups.
22 So, for the PAI, in particular, they normed it with what's
23 called a community sample, kind of a random sample, of
24 individuals, and they saw how those people scored, and then
25 they normed it with a clinical sample, a sample of individuals

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1 who were known to have significant and severe psychiatric
2 illness.

3 So, now there are some -- on one of the scales, for
4 example, there are items embedded in here that are so severe
5 and so extreme, that even people who have known severe
6 psychiatric illness don't get scores that high on this item.
7 So, what we know is that when people are trying to fake or
8 exaggerate illness, they tend to overreport. So, it kind of
9 gives us that sense.

10 And then it might also ask for things that most of us
11 are willing to admit to -- like sometimes I get mad or I get
12 annoyed when I get something in the mail -- I'm making these up
13 because -- for test security purposes -- but things like that,
14 where most of us would be willing to say, yes. Well, if you're
15 saying no to, like, anything that could potentially be
16 negative, then it's pretty clear that you have what's called a
17 defensive profile, you're trying to make yourself better. And
18 that would be important -- all of these kinds of response
19 styles are really important to understand in a forensic
20 evaluation.

21 Q. You mentioned the PAI. That's the Personality Assessment
22 Inventory, correct?

23 A. Yes.

24 Q. You gave other tests as well, the M-FAST, the Miller
25 Forensic Assessment of Symptoms, Trauma Symptom Inventory-II,

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1 Adverse Childhood Experience Questionnaire, Life Events
2 Checklist, Posttraumatic Checklist-V, and the CAPS-V, right?

3 A. Yes.

4 Q. Could you tell us a little bit about those, in particular
5 the CAPS-V?

6 A. Okay. Is it okay if I group them in a way that makes
7 sense? I'll talk about them all.

8 Q. Absolutely.

9 A. So, the first thing you do -- I do when I'm beginning an
10 assessment is I really want to know how this person is
11 responding, so that gives me information that I can then use
12 for the rest of the test. So, in the beginning, I give the
13 PAI, I give the Mini-Mental Status Exam, and I give another
14 screening interview, which is called the M-FAST, the Miller
15 Assessment of Symptoms Test. And what that test does is it
16 specifically assesses for malingering. And it works very
17 similarly to how I just described a norm MAT test on folks who
18 they know have severe psychiatric illness and they see what do
19 those folks and various types of illness, how do they perform
20 on this test, what kinds of symptoms do they have.

21 They also do things like they will get a pool of
22 subjects, and they'll say I want you to fake being depressed,
23 answer this the way you might if you were trying to fake
24 something. So they norm it.

25 So, that particular screening is -- I administered.

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1 And then if someone scores above a certain threshold on that
2 instrument, there's a much longer structured clinical interview
3 I would have had to have done to further assess for
4 malingering. So, the test will let me know, according to the
5 test makers, is this person answering a test in a way that's
6 consistent with how our group of honest responders answered.

7 So, that's what the M-FAST is.

8 And then the third instrument that gives me validity
9 information is something called the Trauma Symptom Inventory-2,
10 and that instrument was developed by a researcher and
11 clinician, a very well-known author in the field of trauma, to
12 assess for the types of symptoms, problems, and difficulties
13 that someone who has experienced a traumatic event may have.
14 Because posttraumatic stress disorder is one possible
15 manifestation of trauma, but we know that trauma can actually
16 cause a whole range of various kinds of issues – from
17 depression, anxiety, health issues. So there's that test.
18 That test has the same kinds of validity measures in it as the
19 PAI does, but it was normed on a traumatized sample group.

20 So, those three, plus the CAPS, which is a structured
21 clinical interview, it's not validated with particular validity
22 scales. That scale is where the person has to describe in
23 detail the alleged circumstance that they're saying is the one
24 that currently, in the past month, is bothering them the most.
25 So, they use the language in there to say, like, what's the

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1 worst event, but they then define it to say, what's currently
2 bothering you the most?

3 And then you ask a series of questions that are mapped
4 to the diagnostic symptoms of posttraumatic stress disorder,
5 and you say, you know, do you have intrusive thoughts, do you
6 get upset when you're reminded of the event. And for each of
7 those, the person has to give me examples of what exactly the
8 symptom looks like, how it affects them, how they cope with it
9 when it happens, how disruptive it is, and then also how
10 frequently over the course of the past month has it happened.

11 So, I'm then able, using scoring instructions, to both
12 link it -- is it or is it not linked to this alleged event they
13 first told me about -- and then, also, I can give a score
14 zero -- absent, mild, moderate, severe, or extreme, based on
15 that severity and frequency indicator.

16 Q. I'm sorry, go ahead.

17 A. So, those four, I was just going to say, are the ones that
18 are most objective and the ones I would rely most heavily on.

19 The others are what's known as face valid clinically
20 relevant screening tools. They're the kinds of things you
21 might get when you go to see your doctor. They're screening
22 that how's this person been in the last week, the last couple
23 of weeks, how much are they reporting anxiety, are they
24 reporting depression, and I do that for two reasons -- one, it
25 helps give me a very narrow window so I can better understand

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1 what this person is saying about their state of mind at the
2 time that I'm evaluating them, but then it also gives me a way
3 to do a validity check, because those, it's very obvious, if
4 you want to report that you're really depressed, it's very
5 clear how to do that on those forms. So I want to see is this
6 person, on the forms where it's obvious how they're supposed to
7 answer, if they have a problem, how are they answering, versus
8 on the ones where it's not clear.

9 The other one that you mentioned is something called
10 the Life Events Checklist. And what that is, is it's required
11 to be administered prior to administering the CAPS, the
12 clinical interview, and it goes through in great detail a list
13 of, I believe, 17 different types of traumatic events that an
14 individual could have experienced or witnessed or found out
15 about about a loved one, to find out and get a full trauma
16 history. That test can be administered as, here, fill this out
17 for me, or it can be conducted in the way that I did it, which
18 is we went through, asked about each event, and got a sense of
19 it, and then the person said, okay, of all of those things,
20 which is bothering you the most over the past month. And it
21 also asks, have you had other events in your life that have
22 bothered you to the same degree, even if this is the one that's
23 bothering you the most.

24 And then that becomes that Criterion A index event for
25 the rest of the PTSD assessment.

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1 THE COURT: We're going to break for the afternoon
2 break. Fifteen minutes.

3 (Jury not present)

4 (Recess)

5 THE COURT: Dr. Rocchio, come on up, and we'll get the
6 jury.

7 MR. STEIGMAN: Judge, at the end - we don't have to do
8 it now, but when we're done for the day - perhaps if I could
9 have a moment for clarification with respect to one of the
10 points of the ruling, or I could do it quickly now at a
11 sidebar?

12 THE COURT: Let's do it later.

13 MR. STEIGMAN: Yes. Thank you.

14 THE COURT: Yes. We have a 4:30 criminal, so we'll
15 break a little early today.

16 And tomorrow, there's a memorial for the late
17 Judge Pauley at 4:00 o'clock, so I'll break shortly before
18 4:00.

19 Okay.

20 (Continued on next page)

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1 (Jury present)

2 THE COURT: Okay. Let's continue.

3 MR. STEIGMAN: Thank you, Judge.

4 BY MR. STEIGMAN:

5 Q. Dr. Rocchio, before the break, when we were talking about
6 the validity scales, you mentioned that companies or
7 researchers actually have people try to beat the test to try to
8 fake symptoms, right?

9 A. Yes.

10 Q. Okay. So, explain that to us. What's going on with that?

11 A. So, when they're trying to determine how various groups
12 might score on a particular measure, researchers will assign,
13 as I said, you know, I want you to take this test, and I want
14 you to pretend that you have PTSD, and they'll have that group
15 take the test. Then they'll have a group who, through other
16 means, they know has PTSD, and they'll have them take the test,
17 and then you can, in that way, compare how easy is it when we
18 tell people, look, here are the criteria for PTSD, we want you
19 to try to answer this test, and we want you to try to fake it,
20 try to answer this test so that it'll score a particular way,
21 and then they compare that to people who actually they know
22 have the diagnosis. And, I mean, this is a main research
23 method for a number of tests and disorders, but that's
24 basically how it works.

25 Q. What has that research revealed?

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1 A. The PAI, in particular, is extraordinarily difficult to
2 fake.

3 Q. Why? If you tell someone what the symptoms are, why is it
4 so hard to just spit back the symptoms and fake out the test?

5 A. So, as I said, there are 344 items, and they tap a whole
6 range of things, and each answer is answered on a 1 to 4 scale
7 of how likely is this to be about you, how true is this to be
8 about you, and to try hold in your mind exactly which questions
9 load on which scales, and to know for questions, say, that have
10 nothing to do with PTSD, how do people who have PTSD respond to
11 that question. You know, and the other way that you know is
12 people who are trying to fake a psychiatric illness, really of
13 any kind, they're typically going to elevate. If someone is
14 going to fake it, they're not going to fake that they have a
15 mild version of something, they're going to fake it, and so
16 you're going to see things, other kinds of red flags, like
17 super high scores, like, across the board. And then that's the
18 reason why the forensic guidelines call for doing a multimethod
19 when you're conducting a forensic assessment, because I can
20 look at the validity scales, for example, on the PAI and the
21 TSI, plus the M-FAST all together and see, on all these
22 different validity scales, how is this person responding.

23 Q. So, in your evaluation of Anthony Rapp, you have three
24 different tests that included validity scales?

25 A. Yes.

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1 Q. With respect to the results of Anthony Rapp's evaluation of
2 those three tests, what, if anything, did the validity scores
3 show?

4 A. The validity scores showed that he attended consistently to
5 items, that he responded in a way that, without any indication
6 of exaggeration or attempt to form a negative impression, that
7 there was no overt or direct attempt to try to form a positive
8 impression. And every scale that I administered to him was a
9 perfectly valid profile.

10 Q. Any evidence of malingering?

11 A. None.

12 Q. Any evidence of exaggeration?

13 A. None.

14 Q. Any evidence of minimization?

15 A. No.

16 MR. SCOLNICK: Objection. I think this is getting
17 into motion in limine 3.

18 THE COURT: Overruled.

19 BY MR. STEIGMAN:

20 Q. In the course of this case, have you learned that the
21 defendant retained a psychiatrist named Alexander Bardey?

22 A. Yes.

23 Q. Did Dr. Bardey also administer certain tests to Anthony
24 Rapp, as part of this litigation?

25 A. Yes.

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1 Q. Do you know what tests he administered that had validity
2 scores?

3 A. I do.

4 Q. Can you tell the jury, please?

5 A. Dr. Bardey administered a test called the Millon Multiaxial
6 Inventory, which is a similar kind of broad-based measure to
7 the PAI. It's much shorter, and, actually, it's a little bit
8 of a harder test to quantify because people have to answer in a
9 true/false manner on that particular test; they don't have kind
10 of the flexibility. But he gave that, and that had validity
11 scales on it.

12 He gave the Trauma Symptom Inventory-II, which was one
13 of the same tests that I administered.

14 And then he administered, or he had his assistant
15 administer, the SIRS-II, which, if you remember, I talked about
16 administering the Miller test, which is a screening instrument,
17 and Anthony got a zero on that test. He didn't say yes to any
18 single one of those items. But had he scored at a 6 or higher,
19 then I would have had to have administered the SIRS.
20 Obviously, since he said no to everything there, there was no
21 point, to me, to administer the SIRS. So those are the three
22 tests that Dr. Bardey administered.

23 Q. What did the zero on that Miller test indicate?

24 A. He didn't report any of the symptoms that would be
25 exaggerated or improbable or unlikely, that -- you know, you

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1 can score up to 5 -- up to 6 before the kind of indication that
2 you need to do more evaluation for malingering. And
3 malingering is falsely reporting symptoms, falsely reporting
4 symptoms or psychological distress, psychiatric illness, for
5 the purpose of some external gain.

6 Q. In the course of your review in this case, did you have a
7 chance to review Dr. Bardey's objective testing?

8 A. I did.

9 Q. And did you review the raw data of those tests?

10 A. I did.

11 Q. Did you review the validity scores?

12 A. I did.

13 Q. What did the validity scores of the tests that Dr. Bardey
14 administered to Anthony Rapp reveal?

15 A. Completely valid, completely normal, totally valid
16 profiles, in terms of response style.

17 MR. SCOLNICK: Your Honor, objection as to this
18 witness commenting on the rebuttal expert. The rebuttal expert
19 can comment on the plaintiffs' expert, but I don't think it's
20 appropriate for it to go the other way.

21 MR. STEIGMAN: I don't see why it's inappropriate.
22 They served a report, they served testing, they gave us data.

23 THE COURT: Is this an opinion expressed in her
24 report?

25 MR. STEIGMAN: It is not. She didn't have the data.

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1 We got the data a week ago, two weeks ago.

2 THE COURT: The answer is stricken, and the jury will
3 disregard her testimony about Dr. Bardey's results.

4 BY MR. STEIGMAN:

5 Q. You have had a chance to review Dr. Bardey's deposition,
6 correct?

7 A. Yes.

8 MR. STEIGMAN: Can we go to page 42, line 8, please.

9 Q. I want you to assume that Dr. Bardey was asked the
10 following questions and gave the following answers, starting on
11 page 42, line 8.

12 MR. SCOLNICK: Objection, your Honor; same issue.

13 This is not in her report.

14 THE COURT: Well, I better see the Q&A first. Is it
15 on the screen?

16 MR. STEIGMAN: Yes, it is.

17 Can we approach, or no?

18 THE COURT: Just give me the page and line.

19 MR. STEIGMAN: I would like to read 42/8 through 43,
20 line 20.

21 THE COURT: Turn the page on the screen, please.

22 (Pause)

23 THE COURT: Sustained.

24 BY MR. STEIGMAN:

25 Q. Doctor, do you have an opinion with regard to whether or

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1 not an intelligent person who's done his research can alter the
2 results of validity tests while staying within a valid
3 response?

4 A. No. I mean, the whole point of having a valid assessment
5 instrument is so that you can determine whether or not a person
6 is responding validly. You can't just pick and choose which
7 results you want. You can't say this is a valid test, but you
8 know what, I don't think it's valid. And you can't --
9 similarly, if you get an invalid test, I can't say, well, the
10 test is invalid, but it did show blah, blah, blah. Either the
11 test is valid, and you have to interpret the results, or the
12 test is invalid. It's not -- I mean, that's the point of
13 giving an objective test, right? Otherwise you could just do a
14 clinical interview.

15 Q. Were there certain differences in the results of the Trauma
16 Symptoms Inventory when you gave it to Anthony Rapp and
17 Dr. Bardey did?

18 MR. SCOLNICK: Objection, your Honor; this is
19 rebuttal.

20 THE COURT: Sustained.

21 BY MR. STEIGMAN:

22 Q. In performing a clinical or a forensic evaluation, if a
23 patient has increased or decreased Trauma Symptom Inventory
24 scores over a period of time, what, if anything, is the
25 significance of that?

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1 A. So, you may have remembered, I called it the Trauma Symptom
2 Inventory-II. It's a second version of the test. But one of
3 the things that they added to the test was the ability
4 specifically to compare, change scores over time, so that the
5 test is actually developed so that you can administer it at
6 multiple times to determine is someone getting better, is
7 someone getting worse, what's happening.

8 So, again, provided and assuming it's a valid
9 instrument, the reason that they did it, and they made those
10 modifications, is because we know that symptoms vary over time;
11 they vary over the course of a month, they vary over the course
12 of one's life. And so, the test is specifically developed to
13 tap into those kinds of changes.

14 So, as long as the test is a valid test, you can see
15 this person's symptoms and which symptoms, right, not just the
16 overall test, but which symptoms are getting worse, which
17 symptoms are getting better, and which are the same.

18 THE COURT: I'm sorry, I just want to understand
19 this - you talk about Trauma Symptom Inventory scores and
20 comparing scores over time. Is this either the same thing or
21 analogous to what happens when many of us go to the doctor, and
22 they say on a scale of 1 to 10, how much does it hurt right
23 now?

24 THE WITNESS: Not really, because it's more analogous
25 to going to the doctor and having the doctor -- you get on the

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1 scale or taking your blood pressure, because there's an
2 objective measure. The TSI is one of those tests that has the
3 validity scales in it, so it's not obvious how to respond, it's
4 not just self-report.

5 THE COURT: And what's the objective measure?

6 THE WITNESS: The objective measure are symptoms that
7 are known to be associated with trauma, all kinds.

8 THE COURT: Any kind of trauma?

9 THE WITNESS: Any kind of trauma.

10 THE COURT: Broken leg?

11 THE WITNESS: Any kind of psychological trauma, any
12 kind of event that would have negative psychological effects on
13 an individual.

14 THE COURT: Well, thank you. I'll leave it at that
15 for now. Let's go.

16 BY MR. STEIGMAN:

17 Q. In addition to the objective test, you did two different
18 interviews with Anthony Rapp, right?

19 A. Yes.

20 Q. How long did you spend, in total, interviewing him?

21 A. About eight hours or so.

22 Q. Can you describe those two interviews?

23 A. So, one of them was the CAPS-V, and that was the structured
24 clinical interview. That was actually part of the testing.

25 The other part of the interview is what's called a

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1 semistructured interview. It means that I have a general
2 format that I walk through with individuals when I'm conducting
3 evaluations, and I apply my knowledge and skills and experience
4 in terms of making -- asking questions and getting an
5 assessment.

6 So, I start with the person's birth, you know, tell me
7 about your life, and I will have them go through significant
8 time periods in their life. And what I'm trying to do is get a
9 sense of, you know, their family life, their background, the
10 context of how they are in the world, what was their level of
11 functioning like, I get an extensive description of whatever it
12 is that they are alleging happened and how they believe it may
13 or may not have impacted them, I conduct a symptom conversation
14 about how are you doing in your life, right, how are your
15 relationships, and take them all the way through how has this
16 affected you, tell me about your schooling, tell me about, you
17 know, all the areas of your life. And I spend a lot of time
18 really trying to understand this individual's experience and
19 how their experience functioning symptoms, distress, may or may
20 not have changed over the course of time.

21 Q. By the way, Dr. Rocchio, when our judge asked you, is this
22 like when the doctor would ask, you know, how much does it hurt
23 on a scale of 1 to 10, and you said it's really more like blood
24 pressure or weight, what did you mean by that?

25 A. So, the questions -- how do you respond -- how do you feel

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1 1 to 10, that's exactly like the screening inventories I
2 referred to earlier, the depression inventory or the anxiety
3 inventory. The Traumatic Stress Inventory is much more
4 objective. It's not just about how do you feel; it measures
5 things like depression, it measures things like arousal, it
6 measures things like overall how anxious are you, overall do
7 you have sexual concerns, overall do you have, you know,
8 problems with your mood. And so, it's an assessment tool to
9 assess for symptoms that are commonly associated with trauma.

10 Q. Thank you.

11 In addition to the, I think you said, about nine hours
12 of interviews with Mr. Rapp, you also conducted certain what
13 you call collateral interviews?

14 A. I did.

15 Q. What are those?

16 A. Those are interviews with people important to the person or
17 people who may have relevant information to provide so that I
18 can get a sense of, has the person's functioning been similar,
19 and, again, is what they're telling me they're suffering from
20 or the distress that they're reporting, have they been talking
21 about this distress with others for a long time, for a short
22 time, has it changed, what has that person noticed, and what
23 does that person know about this person's psychological health,
24 well-being, and functioning.

25 Q. What collateral interviews did you conduct?

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1 A. I did three in this case. So, in one, I spoke with
2 lifelong -- long-term friend of Mr. Rapp's, Detective Sean
3 Snow; I spoke with his therapist of a number of years, Robin
4 Magid; and I spoke with his husband, Ken Ithiphil. Forgive me
5 if I'm mispronouncing the name.

6 Q. Did you look at any other materials to complete your
7 evaluation?

8 A. I did.

9 Q. Describe that for us, please.

10 A. I looked at a whole range of things. So, I looked at
11 Anthony's CV in terms of all of the shows he's been in, I read
12 his book, I read extensive deposition data in this case – so, I
13 read Mr. Spacey's deposition, I read Anthony's deposition, I
14 read Dr. Bardey's deposition, I read the depositions of many of
15 the witnesses in this case – so that I could have external
16 sources of information, because, as I said, when I'm doing a
17 forensic evaluation, I don't rely only or even primarily on
18 what the person is telling me, it's the evaluation in its
19 totality.

20 Q. As a forensic psychologist, was one of the things you did
21 in your examination was evaluate the manner in which Mr. Rapp
22 responded to your questions?

23 A. Yes.

24 Q. What were the results of that evaluation?

25 A. So, when I'm interacting with someone, and I'm doing an

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Rocchio - Direct

1 evaluation, I'm looking at what are known as signs and
2 symptoms. Symptoms, pretty obviously, those are the things
3 that the person is reporting to me. Signs are the things that
4 I observe as a trained psychologist in terms of their manner of
5 interacting, so are they open, are they guarded, are they
6 anxious, are they fidgeting in their seat all the time, do they
7 look flat, depressed. And I found Anthony to be remarkably
8 warm and open, he was very thoughtful in responding to my
9 questions, he was very careful to clarify, when he said
10 something, he wanted to make sure I understood he was saying
11 something, and it wasn't more or less than what he was
12 describing. If he had questions about, you know, something he
13 didn't understand, he asked for clarification. So, it was a
14 cooperative interview.

15 Q. As a result of putting together these objective tests, the
16 two interviews with Mr. Rapp, the collaterals -- by the way,
17 did I ask you, you looked at other materials as well?

18 A. Yeah.

19 Q. Okay.

20 Can you describe those?

21 A. I mean, the depositions, any medical records, his book,
22 some scenes from a play that he was in at the time of this
23 alleged encounter. Everything is listed in my report that I
24 reviewed, but, because I did my evaluation so early - I did it
25 back in January of 2021 - a lot of things happened after that

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1 evaluation. So, I wasn't -- I reviewed them all, but I wasn't
2 able to incorporate them into my report.

3 Q. As a result of the entirety of this examination, did you
4 form certain opinions with respect to what, if any,
5 psychological damage Anthony Rapp sustained as a result of what
6 he alleges occurred with Mr. Spacey when he was 14?

7 MR. SCOLNICK: Objection; motion in limine number 3.

8 THE COURT: That's a yes-or-no question, I take it?

9 MR. STEIGMAN: Yes.

10 THE COURT: All right. Answer it yes or no, please.

11 THE WITNESS: Yes, I did.

12 BY MR. STEIGMAN:

13 Q. And when I ask you about if you formed an opinion, do you
14 understand I mean that to mean an opinion to a reasonable
15 degree of certainty?

16 A. Yes, I do.

17 Q. Okay. So just to keep things moving, anytime I ask you if
18 you have an opinion, I only mean you'd offer that opinion if
19 it's held to a reasonable degree of certainty. Okay?

20 A. Yes.

21 Q. Can you give this Court and jury an overview of the
22 opinions that you reached with regard to whatever psychological
23 damage Anthony Rapp sustained as a result of what he alleges
24 occurred in Mr. Spacey's apartment in 1986?

25 MR. SCOLNICK: Objection; motion in limine number 3.

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1 THE COURT: I couldn't understand.

2 MR. SCOLNICK: Motion in limine number 3.

3 THE COURT: Let me refresh my recollection here,
4 folks.

5 MR. SCOLNICK: Could we be heard at sidebar, your
6 Honor?

7 THE COURT: In a second.

8 Yes, come on up.

9 (Continued on next page)

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1 (At the sidebar)

2 THE COURT: Okay.

3 MR. STEIGMAN: Well, you want to speak?

4 THE COURT: What are we talking about here?

5 MR. SCOLNICK: Your Honor, the Court's order, at
6 motion in limine number 3, prohibits Dr. Rocchio from directly
7 or indirectly giving any opinion as to the credibility of the
8 plaintiff or any other witness whether the alleged incident did
9 or did not occur or whether any circumstances support or
10 undermine any view of those matters.

11 That's directly what --

12 THE COURT: Okay. That's not what he asked, I think,
13 but you're going to have to be more specific. Just give me an
14 overview of the opinions you formed. She should probably
15 formed lots of opinions, some of them on credibility, among
16 others.

17 MR. STEIGMAN: I understand there's some overlap. I'm
18 not going to ask her. I'm trying to do this very
19 appropriately.

20 THE COURT: Of course you are.

21 MR. STEIGMAN: The point of the exercise we've spent
22 hours on is they want to attack her opinion to say maybe some
23 of the symptoms are caused by other things, and the Court has
24 recognized that would be proper. So, I respectfully believe
25 I'm entitled to bring out her opinion that his psychological

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1 injuries are related to his claims.

2 THE COURT: Yes, of course, but your question is way
3 broader than that.

4 MR. STEIGMAN: Okay. It was what -- I'm trying to
5 focus on did you form an opinion with regard -- my question, I
6 thought, was, did you form an opinion about any psychological
7 injury he has that relates to the claims he's made against
8 Spacey.

9 THE COURT: Now, go back. That question does not
10 sound objectionable.

11 MR. SCOLNICK: It certainly does, your Honor, because
12 that's premised upon the assumption that this happened. So
13 she's saying, yes, this happened.

14 THE COURT: He said alleged incident.

15 MR. SCOLNICK: Well --

16 THE COURT: Right?

17 MR. STEIGMAN: Yes. I'll say that a thousand times.

18 MR. SCOLNICK: It doesn't matter whether he's saying
19 it's alleged because she's assuming in the answer that it did
20 happen and that these things are caused by Mr. Spacey.

21 THE COURT: Look, you can rephrase to deal with that.

22 MR. STEIGMAN: If she can't say --

23 THE COURT: You can rephrase to deal with that in the
24 terms of, did you form an opinion that, assuming for the sake
25 of argument what Rapp said actually happened...

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Rocchio - Direct

1 MR. STEIGMAN: You got it.

2 THE COURT: Yes. All right?

3 MR. SCOLNICK: All right.

4 THE COURT: Okay.

5 (Continued on next page)

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1 (In open court)

2 THE COURT: Okay. Let's go.

3 BY MR. STEIGMAN:

4 Q. Let's get a couple of things on the table. You were not
5 retained in this case to evaluate the credibility of the
6 different witnesses, right?

7 A. Absolutely not.

8 Q. You didn't do any psychological evaluation of Kevin Spacey,
9 right?

10 A. No.

11 Q. You didn't do any evaluation of who seems like a more
12 credible witness or less credible witness, right?

13 A. No. That wouldn't be appropriate in my role.

14 Q. Okay. Was your role to evaluate what, if any,
15 psychological damage was caused by what Mr. Rapp claims
16 happened?

17 A. That was my role.

18 Q. I want you to assume, for the sake of the question, that
19 what Mr. Rapp is saying is true. When I ask you to assume
20 that, keep in mind, Mr. Spacey says it's not true, right?

21 A. Yes.

22 Q. No doubt about that, right?

23 Did you form any opinions, based on your evaluation,
24 with respect to what, if any, psychological impact Mr. Rapp
25 sustained as a result of what he says happened?

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1 A. Yes, I did.

2 Q. Can you describe that, please?

3 A. Yes. So, my opinions go over time. So, for me to explain
4 it, what I would need to say is, in the immediate aftermath of
5 this alleged event, I found that Mr. Rapp experienced --

6 THE COURT: Could you please get a little closer to
7 the microphone.

8 A. In the immediate aftermath of this event and in early
9 adolescence, I found that Mr. Rapp experienced a tremendous
10 amount of shame, confusion, uncertainty about what perhaps he
11 may have done or not done to have caused this. It caused him
12 to have questions about him, his sexuality, and the meaning.
13 He really just had a tremendous amount of shame and guilt and
14 distress.

15 At various points in time, he also then had other
16 symptoms of posttraumatic stress disorder, although he did not
17 meet the full criteria for posttraumatic stress disorder until
18 2017. So, the finding — now we'll jump forward to 2017 — was
19 that my finding was that in 2017, Mr. Rapp met the full DSM V
20 criteria for posttraumatic stress disorder with the Criterion A
21 identified event as his allegation. But that is what's known
22 in the field as delayed onset or delayed expression of
23 posttraumatic stress disorder.

24 When you have a delayed onset or delayed expression,
25 in nearly all cases, what you have are evidence of

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1 traumatic-based symptoms all the way through. Mr. Rapp, like
2 many children who are -- well, let me just say, kids who have
3 been sexually abused oftentimes cope by trying to push things
4 out of their mind and trying not to deal with the effects.
5 It's kind of like if I pretend it didn't happen, then they can
6 push it out, and maybe it didn't happen. It's a very common
7 minimization, denial. Also a lot of confusion. It's one of
8 the reasons why more than 50 percent of children don't come
9 forward until adulthood and why only 12 percent ever make a
10 report to any kind of law enforcement.

11 A big part of that is because they don't identify
12 their experience as having been abusive. They know it
13 happened, they know it felt icky, it made them feel dirty and
14 shameful, but they don't understand that it was abusive. They
15 just know something bad happened.

16 So, Anthony experienced the same kinds of symptoms I
17 talked about earlier with posttraumatic stress disorder
18 throughout his life. He had intrusive, unwanted thoughts about
19 the incident that he alleges happened. He would experience
20 distress, emotional upset, sadness, anger, fear in response to
21 seeing Mr. Spacey, either on TV or hearing about his name.
22 That's that piece about reminders. There were times when he
23 tried to avoid his thoughts, didn't want to think about it,
24 tried to push aside his feelings, tried to say, hey, this is no
25 big deal, I'm going to be an actor, and I'm just going to push

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1 this aside and move forward. That's the avoidance.

2 And then the third criteria are distortions and
3 problems with mood and thoughts, where he had a profound sense
4 from the very beginning that the theater, which had formerly
5 been a full place of safety and comfort, and adults had
6 largely -- not all, but largely been very supportive and
7 wonderful to him, and all of a sudden now, there's this sense
8 of lack of safety, kind of in one's body, a sense of
9 violation --

10 (Continued on next page)

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Rocchio - Direct

1 MR. SCOLNICK: Objection, your Honor. This is a
2 narrative that is nonresponsive.

3 THE COURT: Overruled.

4 A. So symptoms of feeling violated, feeling shamed, feeling
5 uncertain about who is to blame, sense of lack of safety, your
6 body becomes kind of an unsafe place, feelings of powerlessness
7 and loss of control. So, again, the problems with mood, kind
8 of varying times where he experienced general symptoms of
9 anxiety, agitation, distress or depressive symptoms, right.

10 And then the fourth category for PTSD are what's known
11 as the symptoms of hyperarousal, and that is where you're
12 walking around with physical tension in your body. You're --
13 you're -- you're likely to jump at an unexpected noise.

14 Earlier I talked about the physical upset in response to a cue.
15 Like, you know, there was a movie Anthony saw when he was young
16 and he didn't realize that Mr. Spacey was going to be in the
17 movie, and he described feeling this electric shock kind of
18 jumping out of his seat in response to the picture of
19 Mr. Spacey.

20 What I'm talking about now is, it's not cued. It's
21 not in response to any necessary trigger. It's just someone
22 comes up behind you and you jump. You're kind of always on
23 edge and on guard.

24 So all of those symptoms from 2017 on, it's my opinion
25 that Anthony experienced all of those along with significant

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1 distress and it affected his sense of self, it affected his
2 level of sexual desire, it affected his sexual and relational
3 interactions with his partner, now husband.

4 And from the age of 14, following the event, there is
5 evidence throughout his life of manifestations of varying
6 pieces or examples of these kinds of symptoms. So he was
7 always having some form of traumatic response, but because his
8 psychological coping mechanism was to try to minimize it, put
9 it aside, push it away, not think about it, not -- that
10 biologic, it worked for a period of time. And for a lot of
11 people, it does. It worked for a period of time until it
12 didn't. And there were a number of things that, you know,
13 resulted in it no longer working for him, and that is when you
14 saw the full blown post-traumatic stress disorder.

15 Q. OK. In the beginning you mentioned that he experienced
16 feelings of shame and confusion, is that correct?

17 A. Yes.

18 Q. All right. Do you have an opinion that those feelings are
19 consistent with someone who has been the victim of childhood
20 sexual abuse?

21 A. Absolutely.

22 Q. Can you explain that, please?

23 A. So one of the things that is most harmful or most toxic
24 about childhood sexual abuse is it's most often perpetrated by
25 someone that the child knows and has reason to trust, and the

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experience is often incredibly confusing because they have these positive thoughts about this person. This is an adult, this is somebody who is supposed to treat me well, yet they are doing this thing to me that is incredibly violating, and they really can't make sense of it.

They often think, what did I do to cause this. In addition, in particular when you're talking about male survivors of childhood sexual abuse, that's been sexually abused by a man, there is an added level of shame because of the stigma associated with gay relationships in our society.

So oftentimes they will wonder, you know, was there -- was there something about me that he picked out. And I'll see this in who identify as gay now or who identify as straight wondering, what did it mean that this sexual thing happened.

MR. SCOLNICK: Objection, your Honor. None of this is in the report that was disclosed.

THE COURT: The question was: Do you have an opinion that those feelings are consistent with someone who has been the victim of childhood sexual abuse?

The witness answered: Absolutely.

Question: Can you explain that, please?

The question is: What is your opinion as to whether or not the feelings to which you refer are consistent with someone who has been the victim of childhood sexual abuse?

So I'm going to strike the answer you've given and

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1 we'll start again with the question we had pending.

2 BY MR. STEIGMAN:

3 Q. Those feelings of blaming himself or confusion, are they
4 consistent with someone who has been the victim of childhood
5 sexual abuse?

6 A. Absolutely.

7 Q. Can you explain your answer, please?

8 A. Um, I'm not sure what I'm allowed to say and what I'm not
9 allowed to say.

10 Q. Sure.

11 A. I can explain that there is a lot of research that has been
12 done looking at what are the effects of childhood sexual abuse
13 on individuals and what are those effects in childhood, what
14 are those effects in adulthood, and from that research as well
15 as clinical experience, we know that shame and confusion are
16 significant factors that commonly appear when children have
17 been sexually abused.

18 Q. OK. You mentioned post-traumatic stress disorder?

19 A. Yes.

20 Q. Can you just tell us the criteria, what constitutes, what
21 is it that constitutes PTSD, post-traumatic stress disorder?

22 A. Sure. So you have to have a criterion A trauma, then you
23 have to have a minimum of one symptom of intrusion, so that is
24 the nightmares or unwanted memories or physical distress or
25 emotional distress in response to reminders. So you need just

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1 one of those.

2 You need one avoidance symptom where it is either you
3 are avoiding thoughts and feelings associated with the trauma.
4 So internal avoidance or avoidance of external events, people,
5 places, and things. So you need only one of those two.

6 Then you need two symptoms of cognition and mood,
7 which really is about the self-blame, shame, it's inappropriate
8 blame is the way it is described for PTSD. So, for example, if
9 somebody is harmed and the only person they think is
10 responsible is the person who harmed them, that wouldn't count
11 for PTSD because it is appropriate to blame somebody who harmed
12 you. But if you're blaming yourself or if you've been, you
13 know, injured and you're blaming, you know, the government in
14 general, then that wouldn't count as a PTSD symptom.

15 So you have to have some distorted or inappropriate
16 sense of guilt or shame, distorted world view, blame either of
17 yourself or of someone else, or pervasive negative feelings,
18 things like shame, guilt, fear, anger. Any of those.

19 So you need -- there's a range within that category.
20 You need two of those types of symptoms, and then you need two
21 symptoms of hyperarousal, and that would be the things like
22 trouble with sleep, trouble with concentration, startled
23 response, sometimes people engage in reckless behavior.

24 So those would be kind of alterations in physiological
25 arousal.

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1 Q. Can a patient suffer post-traumatic stress symptoms without
2 having full on post-traumatic stress disorder?

3 A. Yes.

4 Q. Explain that, please.

5 A. So when you make a diagnosis in the DSM, in order to
6 qualify for a particular diagnosis -- I'm sorry -- you have to
7 meet a certain set of criterion that's spelled out. But within
8 the DSM, there is also ways to classify and categorize varying
9 disorders that, for one reason or another, don't quite meet all
10 of the full criterion. And those disorders have other names.
11 There is something called other trauma and stressor disorder,
12 there is something called an adjustment disorder. And those
13 are meant to capture exactly the question you asked me, which
14 are those circumstances where someone has experienced a
15 stressor or a trauma, and for some reason it doesn't quite meet
16 all of the criterion of PTSD.

17 And as I said, when you have delayed onset PTSD, you
18 almost always have evidence of post-traumatic symptoms prior to
19 the full-blown episode.

20 Q. Did you form an opinion with regard to whether or not
21 Mr. Rapp had post-traumatic symptoms relating to his
22 allegations against Mr. Spacey prior to 2017?

23 MR. SCOLNICK: Objection, motion in limine number
24 three.

25 THE COURT: Pardon me?

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1 MR. SCOLNICK: Motion in limine number three.

2 THE COURT: I'll tell you what we're going to do.

3 We're going to break for the day.

4 Members of the jury, nine o'clock tomorrow. Tomorrow
5 afternoon, we're going to break shortly before four o'clock.

6 MR. STEIGMAN: Did you say nine o'clock tomorrow?

7 THE DEPUTY CLERK: You said nine.

8 THE COURT: I'm sorry, I said nine o'clock? I was
9 mistaken. 9:30, and we'll break shortly before four tomorrow.

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1 (Jury not present)

2 MR. STEIGMAN: I have one thing.

3 THE COURT: Well, Mr. Scolnick has got something and
4 he's sneaking ahead of you. I just want to find out what he's
5 talking about here.

6 Be seated, folks.

7 What are you talking about, Mr. Scolnick.

8 MR. SCOLNICK: Your Honor, I don't have the line in
9 front of me. I have realtime that's passed. It sounded to me
10 like the question was: Did you find that Mr. Rapp has symptoms
11 consistent along the way with someone who has been abused by
12 Mr. Spacey. I can't remember exactly what it was. That is the
13 way I heard it. Essentially, an assumption it was premised on.

14 THE COURT: Something like that was asked a half hour
15 ago.

16 MR. STEIGMAN: I used the word allegations. I'll make
17 the speech every time, if the court wants, that they are
18 allegations, Mr. Spacey denies them, and she's formed opinions
19 based upon these allegations.

20 THE COURT: The pending question was: Did you form an
21 opinion with regard to whether or not Mr. Rapp had post-
22 traumatic symptoms relating to his allegations against
23 Mr. Spacey prior to 2017?

24 So I guess what you're after is a rephrasing of the
25 question?

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1 MR. SCOLNICK: Yes, your Honor.

2 THE COURT: So you'll rephrase it.

3 MR. STEIGMAN: I'm open to suggestion because I
4 thought it's appropriate.

5 THE COURT: Come on. We had that sidebar. I gave you
6 my suggestion. You followed it for a while then you didn't.

7 MR. STEIGMAN: I'm trying.

8 THE COURT: I know you are. Of course you are, and
9 Mr. Scolnick is doing the best he can, too.

10 MR. STEIGMAN: I had one.

11 THE COURT: Yes, I know you had one small thing.
12 Let's find out what it is.

13 MR. STEIGMAN: Can we do it at sidebar?

14 THE COURT: Because?

15 MR. STEIGMAN: It would be under seal properly, in my
16 view.

17 THE COURT: All right.

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1 (At the sidebar)

2 MR. STEIGMAN: The implication is when he
3 cross-examines about one of the prior sexual incidents, based
4 upon the court's prior ruling, there is no reason to name
5 Christopher Hart, because then we go back to the court having
6 said we shouldn't get into that. He can say they were kids,
7 did this, did that. There is no probative value of naming him
8 other than that which the court explained.

9 MR. SCOLNICK: I disagree, your Honor. The jury has
10 already heard extensive information about their relationship.
11 I think it provides a context of it. I think it would be
12 misleading to omit that information. We've already heard from
13 him. We heard he is one of his close friends, and I think it
14 is relevant.

15 MR. STEIGMAN: I think that's exactly what the court
16 ruled upon before.

17 THE COURT: I thought so.

18 Mr. X.

19 MR. SCOLNICK: Or a friend, just not using his name.

20 THE COURT: Yes, yes.

21 How long is the direct going to continue tomorrow?

22 MR. STEIGMAN: I'm hoping to be done in an hour or so.

23 THE COURT: OK. And the cross I thought you were
24 winding down?

25 MR. STEIGMAN: I'm trying.

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1 THE COURT: I know.

2 MR. SCOLNICK: I wasn't anticipating this examination.
3 I would say at least two hours, probably more. Then, your
4 Honor --

5 THE COURT: Then you're going to rest, right?

6 MR. STEIGMAN: I did make one change. We're going to
7 show Barrowman. I know they may or may not have. So much came
8 in on cross, I want the jury to hear Barrowman. We will play
9 Barrowman's testimony in our case.

10 MR. SCOLNICK: We don't have any objection to that,
11 your Honor.

12 THE COURT: How long is it?

13 MR. STEIGMAN: It's not that long. It's less than an
14 hour.

15 MR. SCOLNICK: Less than an hour.

16 THE COURT: All right. If there is no objection,
17 fine. Then you'll rest?

18 MR. STEIGMAN: Then I'll rest.

19 THE COURT: Then you're going to make a motion?

20 MR. SCOLNICK: We will, your Honor. We have cut our
21 case down significantly.

22 THE COURT: Yeah, yeah, yeah. Let me get to the
23 motion for a minute.

24 You're not bound, but what do you anticipate the
25 grounds being?

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1 MR. SCOLNICK: I think it would be similar grounds
2 what we raised pretrial.

3 THE COURT: So, what?

4 MR. SCOLNICK: To what we raised pretrial.

5 MR. STEIGMAN: Summary judgment.

6 THE COURT: Are you going to seek dismissal of the
7 IIED claim on the merits?

8 MR. SCOLNICK: Yes.

9 THE COURT: On what grounds?

10 MR. SCOLNICK: Well, my colleague is writing the
11 motion right now. Perhaps he would be better to able to speak
12 to it than I am. I've been focusing on the cross-examinations.
13 I can bring him up, if the court wants.

14 THE COURT: No.

15 I gather that there is New York law to the effect that
16 where an IIED claim is based on the same conduct and seeks
17 recovery for the same injuries as another commonly recognized
18 provision sounds to be the case here. The IIED case goes out,
19 because it's totally surplusage.

20 So I urge you both be prepared on that.

21 MR. SCOLNICK: Yes.

22 MR. STEIGMAN: Is there an alternative pleading in
23 New York?

24 THE COURT: Of course there is. But the point is, if
25 the battery claim is dismissed, a verdict for the plaintiff on

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1 the IIED would be inconsistent and vice versa. That's the
2 point, I think.

3 MR. STEIGMAN: So I'll briefly respond.

4 THE COURT: There is a New York Court of Appeals case
5 and a Second Circuit case that have both, without definitively
6 ruling on that, though, I think the appellate divisions have,
7 some of them. I'm just inviting your attention to that because
8 it is on my mind and I don't want you to be blindsided.

9 MR. STEIGMAN: OK. I think colloquially the standard
10 for a motion, emotional distress is something outrageous,
11 exceeds the bounds of common --

12 THE COURT: Absolutely.

13 MR. STEIGMAN: There was a case like about, aha --

14 THE COURT: The last time I looked, the New York Court
15 of Appeals never sustained the plaintiff's complaint/liability
16 verdict on that cause of action. Now that may be out of date,
17 but that's not matter.

18 MR. STEIGMAN: It didn't go to the Court of Appeals,
19 but within the last two years, my office has won in trial
20 court.

21 THE COURT: That's neither here nor there, all this
22 just chitchat.

23 But it was to your point that there is scarcity, at
24 best, successful plaintiff IIED cases. That's not the point.
25 The point is there seems to be some law on the question where

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they are duplicative, so that's what I'm addressing.

2 MR. STEIGMAN: You're saying, if the battery went, by
3 definition the other one would go, too?

4 THE COURT: Sure. If there was no battery, what was
5 the intentional infliction of emotional distress. He never
6 touched him.

7 MR. STEIGMAN: Without belaboring it, I understand the
8 point.

9 THE COURT: OK, so . . .

10 MR. STEIGMAN: I could imagine the scenario. Probably
11 doesn't fit here.

12 THE COURT: I don't know. I don't know. I'm just
13 alerting you.

14 MR. SCOLNICK: Thank you, your Honor.

15 THE COURT: Thanks, guys.

16 MR. SCOLNICK: See you tomorrow.

17 MR. STEIGMAN: Thank you.

18 (Continued on next page)

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(In open court; jury not present)

MS. KELLER: Your Honor, may I ask the court to quickly revisit the expert witness exclusion. I haven't --

THE COURT: I'm sorry, the what?

MS. KELLER: May I ask the court to quickly revisit the expert witness exclusion order.

I have had a chance -- I don't have the Internet connectivity I need to pull up the case, but I've taken a look at federal courtroom evidence, and it seems -- there seems to be a line of cases saying that the witness exclusion exception is frequently involved in the case of experts, it's within the trial court's discretion.

There was a Second Circuit case on it being an abusive discretion to sequester the parties' fire expert.

THE COURT: I'm sorry. I'm not getting what you're saying.

MS. KELLER: The question of whether you have to exclude a witness is within the discretion of the trial court. There are cases in particular involving expert witnesses where they have been exempted from the usual sequestration of witness rule. One of those is *Malek v. Federal Insurance Company*, 994 F.2d 49 and 54, saying it is an abuse of discretion to sequester a party's fire expert.

There are other cases, some of which are circuit cases and some of which are not, one of them is *Yu v. Idaho State*

MACsRAP5

Rocchio - Direct

1 University. That is a district court case, but it discusses
2 that allowing a plaintiff to have his expert rebuttal witnesses
3 present during trial proceedings is important to his trial
4 presentation, especially if you're going to have opposing
5 experts with competing testimony.

6 In this case, your Honor, we never anticipated that
7 there would be a pre-rebuttal of our expert. We thought their
8 expert would testify, our expert would rebut, they would have a
9 chance at surrebuttal. That's the anticipated course that
10 things would take.

11 THE COURT: Ms. Keller, the rule says, at a party's
12 request, the court must order witnesses excluded so that they
13 cannot hear other witness's testimony. There are exceptions.
14 The exception that you're now advocating for was not raised
15 before.

16 MS. KELLER: I understand. The reason I'm asking the
17 court to revisit it is because I don't think it would be fair
18 to allow this witness to keep testifying without our witness
19 being able to come tomorrow and listen and be provided with a
20 copy of her transcript.

21 Because as I said, she's doing pre-rebuttal of our
22 expert's testimony, and it would only be fair to let him hear
23 what she is saying.

24 THE COURT: There was a very limited amount of that
25 and I think I cut most of it off, if not all of it.

MACsRAP5

Rocchio - Direct

1 MR. STEIGMAN: All of it.

2 MS. KELLER: Not all of it, but I agree with the
3 court. You cut most of it off.

4 THE COURT: For the obvious reason, and it wasn't in
5 her report.

6 MS. KELLER: There are a number of things that have
7 been gone into that weren't in her report.

8 THE COURT: Look, I'll look at your cases and make a
9 decision in the morning, but I don't think we need to take more
10 time on that now.

11 OK. Thanks, folks.

12 MS. KELLER: Thank you, your Honor.

13 THE COURT: Have a nice evening.

14 MR. STEIGMAN: You too, your Honor.

15 (Adjourned to October 13, 2022, Thursday, at
16 9:30 a.m.)

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